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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CELESTE N. BONNER, an individual, on
behalf of the State of California, as a private
attorney general,

PLAINTIFF,

v.

USCB, INC.; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 21STCV24822

[Assigned for all purposes to the Hon.
Stephen I. Goorvitch, Dept. 39]

**FIRST AMENDED
REPRESENTATIVE ACTION
COMPLAINT**

1. Penalties Pursuant to Labor Code
§2699, et seq. for violations of Labor
Code §§ 204(d), 210, and 2802

FILEDSuperior Court of California
County of Los Angeles**10/18/2021**

Sherri R. Carter, Executive Officer / Clerk of Court

By: J. Arceo Deputy

1 Plaintiff CELESTE N. BONNER, on behalf of herself, and the people of the State of
2 California and as an “aggrieved employee” under Labor Code Private Attorneys General Act of
3 2004, §2699, et seq. (hereafter “PAGA”), complains of Defendant USCB, INC. (“Defendant”) and
4 each of them, as follows:

5 **I.**

6 **INTRODUCTION**

7 1. This is a Representative Action, pursuant to Labor Code §2699, et seq., on behalf
8 of the following individuals:

9 All persons who are employed or have been employed as an hourly
10 employee by USCB, INC., in the State of California since one (1)
11 year prior to the date of Plaintiff’s notice letter to the Labor &
Workforce Development Agency (“LWDA”) and continuing to the
present. (“Aggrieved Employees”)

12 2. For at least one (1) year prior to the date of the letter sent to the Labor Workforce
13 and Development Agency (“LWDA”) and Defendant giving notice of this claim pursuant to PAGA
14 and continuing to the present, Defendant has failed to properly comply with Labor Code §§ 204(d),
15 210, and 2802.

16 3. Defendant issued Plaintiff and all Aggrieved Employees paychecks on the eighth
17 (8th) day following the close of the payroll period. Thus, Plaintiff is an aggrieved employee within
18 the meaning of PAGA and Defendant has violated Labor Code §§ 204(d) and 210 with respect to
19 Plaintiff and all Aggrieved Employees.

20 4. Defendant has engaged in practices that violate Labor Code § 2802. Defendant has
21 failed to reimburse Plaintiff and all Aggrieved Employees for the cost of using their personal cell
22 phones, electricity, and internet for business related purposes. The work performed by Plaintiff
23 and all Aggrieved Employees necessitated the use of cell phones, electricity, and internet, but
24 Defendant failed to reimburse Plaintiff and all Aggrieved Employees for these expenses. Thus,
25 Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant has violated Labor
26 Code Labor Code § 2802 with respect to Plaintiff and all Aggrieved Employees.

27 5. Plaintiff, on behalf of herself and all Aggrieved Employees presently or formerly
28 employed by Defendant during the liability period, brings this representative action pursuant to

1 Labor Code §2699, et seq. seeking penalties for Defendant’s violation of Labor Code §§ 204(d),
2 210, and 2802.

3 **II.**

4 **JURISDICTION AND VENUE**

5 6. This Court has subject matter jurisdiction over all causes of action asserted herein
6 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure
7 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive
8 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the
9 State of California or is subject to adjudication in the courts of the State of California.

10 7. This Court has personal jurisdiction over Defendant because Defendant has caused
11 injuries in the County of Los Angeles and the State of California through their acts, and by their
12 violation of the California Labor Code and California state common law.

13 8. At all times set forth herein, Defendant is and was, based upon information and
14 belief, a California corporation doing business in Los Angeles County and in the State of California
15 with its California address at 355 South Grand Avenue Suite 3200, Los Angeles, CA 90071. At
16 all relevant times, Defendant employed Plaintiff in the State of California.

17 9. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
18 Civil Procedure § 395. Defendant operates within California and does business within Los
19 Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiff and all
20 “aggrieved employees” within the State of California and the county of Los Angeles.

21 **III.**

22 **PARTIES**

23 **A. PLAINTIFF**

24 10. Plaintiff CELESTE N. BONNER is a resident of State of California. Plaintiff was
25 employed by Defendant as a non-exempt employee in California.

26 11. Upon information and belief, Plaintiff and all Aggrieved Employees are covered by
27 California Industrial Welfare Commission Occupational Wage Order No. 4 -2001 (Title 8 Cal.
28 Code of Regs. § 11040.)

1 12. Plaintiff and all current and former employees are Aggrieved Employees within the
2 meaning of Labor Code §2699, et seq. (See Labor Code §2699(c).)

3 **B. DEFENDANTS**

4 13. Defendant USCB, INC. is believed to be a California corporation operating within
5 the State of California. Defendant's corporate address is believed to be 355 South Grand Avenue
6 Suite 3200, Los Angeles, CA 90071. Upon information and belief, Defendant employed Plaintiff
7 and similarly situated persons as hourly employees within California. Defendant has done and
8 does business throughout the State of California.

9 14. The true names and capacities, whether individual, corporate, associate, or
10 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
11 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
12 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
13 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
14 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
15 capacities of the Defendants designated hereinafter as DOES when such identities become known.

16 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
17 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
18 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
19 legally attributable to the other Defendants.

20 16. Furthermore, Defendants acted in all respects as the employers or joint employers
21 of Aggrieved Employees. Defendants, and each of them, exercised control over the wages, hours
22 or working conditions of Aggrieved Employees, or suffered or permitted Aggrieved Employees to
23 work, or engaged, thereby creating a common law employment relationship, with the Aggrieved
24 Employees. Therefore, Defendants, and each of them, employed or jointly employed the
25 Aggrieved Employees.

26 **IV.**

27 **FACTUAL BACKGROUND**

28 17. Plaintiff and the Aggrieved Employees are, and at all times pertinent hereto, have

1 been employees of Defendant.

2 18. Upon information and belief, Plaintiff and the Aggrieved Employees are covered
3 by California Industrial Welfare Commission Occupational Wage Order No. 4-2001 (Title 8 Cal.
4 Code of Regs. § 11040).

5 19. On a regular and consistent basis, for all Aggrieved Employees employed by
6 Defendant, Defendant has failed to comply with Labor Code §§ 204(d), 210, and 2802 as alleged
7 herein.

8 **V.**

9 **FIRST CAUSE OF ACTION**

10 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
11 **FOR PENALTIES PURSUANT TO LABOR CODE §2699, ET SEQ. FOR VIOLATIONS**
12 **OF LABOR CODE §§ 204(D), 210, AND 2802**

13 48. Plaintiff, on behalf of herself and all Aggrieved Employees, realleges and
14 incorporates by reference all previous paragraphs.

15 49. Defendant's pay policies and practices violate Labor Code §§ 204(d) and 210,
16 which requires that employees paid on a weekly, biweekly, or semimonthly basis be paid no later
17 than seven (7) calendar days following the close of the payroll period.

18 50. For at least one (1) year prior to the date of the letter sent to the Labor & Workforce
19 Development Agency and Defendant giving notice of these PAGA claims and continuing to the
20 present, Defendant has violated Labor Code §§ 204(d) and 210 with respect to Plaintiff and all
21 Aggrieved Employees. Defendant issues its California employees, including Plaintiff, their wages
22 on the eighth (8th) day following the close of the payroll period. Thus, Plaintiff is an aggrieved
23 employee within the meaning PAGA and Defendant's practice violates Labor Code §§ 204(d) and
24 210 with respect to Plaintiff and all Aggrieved Employees.

25 51. For at least one (1) year prior to the date of the letter sent to the Labor & Workforce
26 Development Agency and Defendant giving notice of these PAGA claims and continuing to the
27 present, Defendant has violated Labor Code § 2802 with respect to Plaintiff and all Aggrieved
28 Employees. Labor Code § 2802 provides that (a) An employer shall indemnify his or her employee

1 for all necessary expenditures or losses incurred by the employee in direct consequence of the
2 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
3 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
4 unlawful.

5 52. Here, Defendant has failed to reimburse Plaintiff and all Aggrieved Employees for
6 the cost of using their personal cell phones, electricity, and internet for business related purposes.
7 The work performed by Plaintiff and all Aggrieved Employees necessitated the use of cell phones,
8 electricity, and internet, but Defendant failed to reimburse Plaintiff and all Aggrieved Employees
9 for these expenses. Thus, Plaintiff is an aggrieved employee within the meaning PAGA and
10 Defendant has violated Labor Code § 2802 with respect to Plaintiff and all Aggrieved Employees.

11 53. Defendant's violation of Labor Code §§ 204(d), 210, and 2802 was all done on a
12 regular and consistent basis.

13 54. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
14 §2699, et seq. because of Defendant's violation of Labor Code §§ 204(d), 210, and 2802; Wage
15 Order 4-2001; and California Code of Regulations, Title 8, Section 11040, which call for civil
16 penalties.

17 55. For each such penalty, Plaintiff and the Aggrieved Employees are entitled to
18 penalties in an amount to be shown at trial, subject to the following formula:

19 a. \$100 for the initial violation per employee per pay period.

20 b. \$200 for each subsequent violation per employee per pay period.

21 56. These penalties shall be allocated seventy-five percent (75%) to the LWDA and
22 twenty-five percent (25%) to the affected employees.

23 57. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded a supplemental notice
24 letter to the LWDA¹ and mailed a letter by certified mail to Defendant USCB, INC.'s entity
25 address, which is 355 South Grand Avenue Suite 3200, Los Angeles, CA 90071, as proscribed by
26 the Code on August 12, 2021, describing Defendant's conduct in violation of Labor Code §§

27 ¹ Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California
28 Labor and Workforce Development Agency / Department of Industrial Relations website
(<https://dir.tfaforms.net/308>).

204(d), 210, and 2802. (see Exhibit “1.”) Plaintiff also obtained an e-filing confirmation from the LWDA confirming receipt of the notice (see Exhibit “2”).

58. As no letter evidencing the LWDA’s intention to investigate was received by Plaintiff’s Counsel within sixty-five (65) calendar days, Plaintiff is entitled to commence a civil action as though the LWDA had not chosen to investigate pursuant to Labor Code §2699.3(a)(2)(A). Plaintiff will also provide the LWDA with a filed-stamped copy of the First Amended Representative Action Complaint immediately.

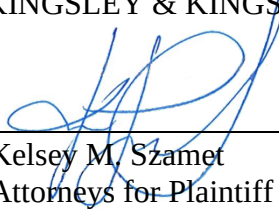
RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For penalties and other relief pursuant to Labor Code §2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
2. An award of prejudgment and post judgment interest;
3. An award providing for payment of costs of suit;
4. An award of attorneys’ fees; and
5. Such other and further relief as this Court may deem proper and just.

DATED: October 18, 2021

KINGSLEY & KINGSLEY, APC

By: 

Kelsey M. Szamet
Attorneys for Plaintiff Celeste N. Bonner and all
Aggrieved Employees

EXHIBIT "1"

KINGSLEY & KINGSLEY

| L A W Y E R S |

August 12, 2021

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

USCB, INC.
355 South Grand Avenue Suite 3200
Los Angeles, CA 90071
Certified Mail: 7018 1130 0001 5815 0560

Re: Celeste N. Bonner v. USCB, INC.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents Celeste N. Bonner (“Plaintiff”) and a proposed group of current and former employees working for USCB, INC. (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff has learned additional information and wishes to supplement her original LWDA letter, dated July 8, 2021, which set forth a claim for violation of Labor Code § 2802, with an additional claim for violation of Labor Code §§ 204(d) and 210.¹

Labor Code § 2802 provides that an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties. Here, Defendant has failed to reimburse Plaintiff and aggrieved employees the cost of using their personal cell phones, electricity, and internet necessary for them to discharge for their duties. Defendant required that Plaintiff and the aggrieved employees be available by cell phone and answer/use their cell phones while working and use electricity and internet to perform their job duties. Defendant failed to reimburse Plaintiff and the aggrieved employees for the costs associated with these necessary business expenditures.

¹ Any limitations period referenced throughout this letter is extended pursuant to Emergency Rule 9 of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of limitation for civil actions are tolled from April 6, 2020 until 90 days after the Governor of California lifts the state of emergency related to the COVID-19 pandemic. Any reference to the relevant time period or statute of limitations is extended into the past by the number of days in which this tolling was in effect.

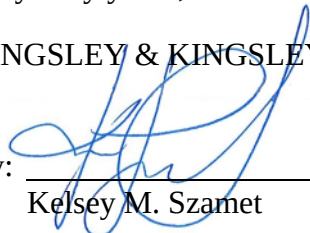
Defendant also failed to pay Plaintiff and all aggrieved employees all wages for a biweekly payroll period within seven (7) calendar days following the close of the payroll period in violation of Labor Code §§ 204(d) and 210. Plaintiff and all aggrieved employees were paid on the eighth (8th) day following the close of the payroll period in violation of these statutes. As such, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant has violated Labor Code §§ 204(d) and 210 with respect to Plaintiff and all aggrieved employees.

Plaintiff asserts these allegations pursuant to PAGA on behalf of herself and aggrieved employees' for violation of Labor Code §§ 204(d), 210, and 2802 since one (1) year prior to the date of Plaintiff's first letter, July 8, 2021, and continuing to the present.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 204, 210, and 2802 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Kelsey M. Szamet

KMS/km

- Cc:
1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/310>
 2. United Employees Law Group, PC, 5500 Bolsa Avenue, Suite 201, Huntington Beach, CA 92649 via U.S. Regular Mail
 3. USCB, INC. via USPS Certified Mail #7018 1130 0001 5815 0560
 4. Tim Keegan, Lewis Brisbois, 650 Town Center Drive, Suite 1400, Costa Mesa, CA 92626 via U.S. Regular Mail

EXHIBIT "2"



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Amended PAGA Claim Notice

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".

[Search for PAGA Case number](#)

Your Information (Attorney or Employee – Whoever is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Amended Notice Detail

Please provide the details of the amendments to the original notice. *

- ☒ Adding additional claims
- ☐ Adding additional corporate defendants
- ☐ Adding additional Individual/Sole proprietor defendants
- ☐ Adding additional plaintiffs
- ☐ Other (please specify)

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☐ Overtime
- ☐ Not paid for all hours worked
- ☐ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☐ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☐ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☐ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Child Labor – Specify Ages

Provide Details of Other Violation *

Other(Maybe Multiple)

☐ Other Violation

PAGA Claim Type – Check All that Apply *

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Amended Notice

Amended Notice *

 Supplemental L...SCB, Inc..pdf

Other Attachment (if any) (must be a .pdf)

 No file chosen[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

- ☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Thursday, August 12, 2021 11:24 AM
To: Service Email
Subject: Thank you for your Amended PAGA Claim Notice Submission.

08/12/2021 11:24:18 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm