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Attorneys for Plaintiff Sasan Azar
individually and on behalf of all others similarly situated

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

**SASAN AZAR, individually and
on behalf of the proposed class,**

Plaintiffs,

v.

**EXTRA SPACE STORAGE, INC., a
Maryland Corporation; and DOES 1
through 50, inclusive,**

Defendants.

Case No.:

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

**Violation of the Private Attorneys
General Act of 2004, Cal. Lab. Code §
2698, et seq.**

Plaintiff, Sasan Azar (hereinafter "Plaintiff"), individually, and on behalf of the general public as private attorneys general and all other aggrieved employees, by and through his attorneys, hereby brings this Representative Action Complaint against Defendant Extra Space Storage, Inc., (hereinafter referred to as "Defendant" or ("ESS")), as follows

I. INTRODUCTION

1. This is a representative action for recovery of civil penalties only under the Private Attorneys General Act of 2004 ("PAGA") codified by California Labor Code sections 2698, et seq. The PAGA permits "aggrieved employees" to bring a lawsuit as a representative action on behalf of themselves and

1 all other current and former aggrieved employees to recover civil penalties and address an employer's
2 violations of the California Labor Code.

3 2. In this case, Defendant violated various provisions of the California Labor Code and Industrial
4 Welfare Commission ("IWC") Wage Orders. Specifically, ESS maintained and implemented policies and
5 practices which result in the failure to authorize and permit paid rest periods under section 226.7 and the
6 applicable wage order; failure to provide Meal breaks in violation of Labor code 512; failure to pay all
7 wages owed upon separation under sections 201, 202, 203 and 204; failure to provide accurate, itemized
8 wage statements under section 226; failure to pay minimum wages and overtime wages under sections
9 510 and 1194; failure to reimburse necessary expenditure under Section 2802; and violation of Private
10 Attorneys General Act of 2004, Labor Code § 2698, et seq.

11 3. Plaintiff was employed with ESS from approximately January or February of 2020 to
12 approximately February 18, 2021 as a non-exempt assistant manager. Plaintiff brings this action on behalf
13 of himself and all other aggrieved employees employed by ESS as an assistant manager, and any other
14 non-exempt employee in California (the "Aggrieved Employees").

15 **II. JURISDICTION AND VENUE**

16 4. This Court has jurisdiction over this action pursuant to California Constitution Article VI,
17 Section 10, which grants the Superior Court "original jurisdiction in all cases except those given by
18 statute to other trial courts."

19 5. This Court has subject matter jurisdiction over this action pursuant to Code of Civil
20 Procedure section 410.10.

21 6. This Court has personal jurisdiction over Defendant in that Defendant had sufficient
22 minimum contacts with the State of California so as to render the exercise of jurisdiction over Defendant
23 by the California courts consistent with traditional notions of fair play and substantial justice.

24 7. Venue is proper in this judicial district pursuant to Code of Civil Procedure section 395.5
25 because Defendant conducts business and commits Labor Code violations in Orange County, and
26 Defendant employs numerous employees in Orange County, California.

27 8. On or about July 7, 2021, Plaintiff complied with the notice requirements pursuant to
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1 California Labor Code § 2699.3 and gave written notice via online filing and certified mail of the
2 specific provisions alleged to have been violated to the Labor and Workforce Development Agency
3 (“LWDA”) and Defendant. A true and correct copy of the notice is attached hereto as **Exhibit A** and
4 incorporated herein by reference.

5 9. Sixty-five (65) days has passed since Plaintiff provided written notice required by Labor
6 Code § 2699.3. Therefore, Plaintiff may commence a civil action pursuant to Labor Code § 269.3(a)(1)-
7 (2).

8 **III. THE PARTIES**

9 10. Plaintiff is a resident of California and was employed by ESS from on or about January
10 or February of 2020 to approximately February 18, 2021 as an assistant manager, at various locations
11 throughout Orange County, California.

12 11. Defendant ESS is a Maryland Corporation registered to do business in California, and at
13 all times relevant herein conducted and continues to conduct substantial and regular business throughout
14 the state of California.

15 12. ESS is in the business of providing storage space for it’s customers and has locations
16 throughout the State of California.

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

24 14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in
25 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
26 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
27 attributable to the other Defendants.
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IV. FACTUAL ALLEGATIONS

15. At all times during the liability period, ESS has conducted business by providing Storage space throughout the State of California.

16. Plaintiff was employed by Defendant from January or February of 2020 to approximately February 18, 2021, as an assistant manager at various locations throughout Orange County California.

17. Plaintiff work(ed) in non-exempt position, as an assistant manager. The purported aggrieved employees Plaintiff will represent were are also employed in non-exempt positions.

18. Plaintiff is informed and believes, and based thereon alleges, Defendant currently employs and during the relevant period has employed hundreds of employees in the State of California in non-exempt positions, similar to Plaintiff.

19. Plaintiff is, and at all times pertinent hereto, has been a non-exempt employee within the meaning of the California Labor Code, and the implementing rules and regulations of the IWC California Wage Orders.

20. Plaintiff is informed and believes, and based thereon alleges, that non-exempt employees are compensated by an hourly rate and upon information and belief, these employees have not been paid wages for all hours worked.

21. In addition, on information and belief ESS did not compensate Plaintiff during hours that he performed labor while off the clock.

22. In addition, on information and belief Defendant failed to pay Plaintiff overtime for all overtime hours.

23. In addition, on information and belief Defendant failed to reimburse Plaintiff for business expenditures, such the use of Plaintiff's personal vehicle, and cellular phone for the benefit of Defendant.

24. In addition, as a result of ESS' policies, as well as productivity requirements and work schedules implemented and enforced by ESS, Plaintiff was often unable to take a lawful net-ten-minute rest period for every four hours worked or major fraction thereof, and/or lawful 30 minuet meal breaks for work period of more than five hours per day.

1 25. On information and belief, ESS did not relieve Plaintiff of all duties during meal and rest
2 periods nor did it relinquish control over how Plaintiff spent his meal and rest break time.

3 26. Plaintiff was not paid one additional hour of pay at the employee's regular rate of pay for
4 each workday that the meal and/or rest period was not provided.

5 27. On information and belief, Defendant knew or should have known that it is improper and
6 unlawful to commit the following acts:

- 7 a. failing to authorize and permit a paid ten-minute rest period for every four hours worked
8 or a major fraction thereof;
- 9 b. failing to authorize and permit a lawful 30 minute meal break for work period of more than
10 five hours per day;
- 11 c. failing to compensate employees with one (1) hour of pay at the regular rate of
12 compensation for each workday that a legally compliant meal or rest period was not
13 provided;
- 14 d. failing to reimburse business expenditures;
- 15 e. failing to pay all wages due and owing upon separation from Defendant's employ;
- 16 f. failing to provide accurate, itemized wage statements; and
- 17 g. failure to pay minimum and overtime wages.

18 28. Plaintiff is informed and believes, and thereon alleges, that Defendant is and was advised
19 by skilled lawyers and other professionals, employees, and advisors with knowledge of the requirements
20 of California's wage and employment laws. Accordingly, Plaintiff is informed and believes that such
21 violations during the liability periods were willful and deliberate.

22 **V. CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 **Violation of Private Attorneys General Act of 2004, Labor Code § 2698, Et Seq.**

25 (Against all Defendants)

26 29. Plaintiff incorporates the above allegations as if fully set forth herein.

27 30. Pursuant to California Labor Code § 2699.3,

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(a) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section 2699.5 shall commence only after the following requirements have been met:

(1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.

(2) (A) The agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

31. On or about July 7, 2021, Plaintiff complied with the notice requirements pursuant to California Labor Code § 2699.3 and gave written notice via online filing and certified mail of the specific provisions alleged to have been violated to the Labor and Workforce Development Agency (“LWDA”) and Defendant. A true and correct copy of the notice is attached hereto as **Exhibit A** and incorporated herein by reference.

32. Sixty-five (65) days has passed since Plaintiff provided written notice required by Labor Code § 2699.3. Therefore, Plaintiff may commence a civil action pursuant to Labor Code § 269.3(a)(1)-(2).

33. Plaintiff is an aggrieved employee as defined in Labor Code § 2699(c). Plaintiff brings this action on her own behalf and on behalf of other Aggrieved Employees.

34. Plaintiff regularly worked in excess of four hours or major fraction thereof a day without being provided a rest period of not less than 10 minutes in which he was relieved of all duties, as required by California Labor Code §§ 226.7 and Wage Order No. 7-2001. Similarly Plaintiff was not provided with a lawful 30 minuet meal break, in violation of California Labor Code §§ 512 and Wage Order No. 7-2001.

35. As a consequence of being short staffed, work schedules, and the responsibilities implemented and enforced by ESS, Plaintiff was often unable to take lawful net-ten-minute rest periods and lawful 30 minuet meal breaks for every five hours worked. For the same reasons, upon information

1 and belief meal breaks were also interrupted, cut short, taken late. As a result of violations of California
2 Labor Code § 226.7; 512, and Wage Order No. 7-2001, ESS is liable for **civil penalties** pursuant to
3 California Labor Code § 2698 *et seq.*

4 36. Defendant has violated California Labor Code §§ 510, 1194 and IWC Wage Order 7-
5 2001 by willfully failing to pay for all hours worked, including hourly wages for Off-the-clock work.
6 Specifically Plaintiff performed labor off the clock when he would have to obtain store keys from a
7 storage unit, and to place the store keys back into the storage unit after having already clocked out. Also
8 by allowing Plaintiff to work through meal and rest periods Defendant failed to pay hourly wages,
9 including minimum and overtime wages earned. In addition, the Aggrieved Employees are entitled to
10 liquidated damages equal to unlawfully unpaid minimum wages with interest pursuant to Labor Code §
11 1194.2. As a result of violations of California Labor Code § 510, 1194 and Wage Order No. 7-2001,
12 ESS is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

13 37. Defendant has violated California Labor Code §§ 201, 202 and 204 by willfully failing to
14 pay all compensation due and owing to Plaintiff at the time employment was terminated. Defendant
15 failed to pay Plaintiff all compensation due upon termination of employment as required under
16 California Labor Code §§ 201 and 202, including meal and rest period premium pay, overtime pay,
17 minimum wage payments, and bonuses. Accordingly, Defendant has violated California Labor Code §§
18 201, 202, 203, and 204, Defendant is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

19 38. Defendant has violated California Labor Code §§ 2802 by failing to reimburse Plaintiff
20 for business expenditures for the use of his personal vehicle and his cellular phone for the benefit of
21 ESS' business. Specifically Plaintiff would have to use his personal cellular phone to find other Storage
22 Locations for customers, and he would have to use his personal vehicle to make bank deposits, and to go
23 to different locations of ESS.

24 39. Defendant has violated Labor Code § 226(a) by willfully failing to furnish Plaintiff with
25 accurate, itemized wage statements showing the actual hours worked. As described above, Defendant
26 deliberately failed to pay wages for all hours worked, for the business expenses, failed to apply the
27 commission/bonus earnings to the overtime rate and failed to pay rest and meal period premiums, and,
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1 therefore, knew or should have known that the wage statements were inaccurate. As a result of
2 violations of California Labor Code § 226(a), Defendant is liable for civil penalties pursuant to
3 California Labor Code § 2698 *et seq.*

4 40. Labor Code § 558 provides:

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6 “An employer or other person acting on behalf of an employer who violates, or causes to
7 be violated, a section of this chapter or any provision regulating hours and days of work in
8 any order of the Industrial Welfare Commission shall be subject to a civil penalty as
9 follows:

10 “(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
11 period for which the employee was underpaid in addition to an amount sufficient to recover
12 underpaid wages.

13 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
14 for each pay period for which the employee was underpaid in addition to an amount
15 sufficient to recovery underpaid wages.”

16 Plaintiff is not claiming any wages under Labor Code § 558.

17 41. Labor Code § 2699(f) provides:

18 (f) For all provisions of this code except those for which a civil penalty is specifically
19 provided, there is established a civil penalty for a violation of these provisions, as follows:

20 (1) If, at the time of the alleged violation, the person does not employ one or more
21 employees, the civil penalty is five hundred dollars (\$500).

22 (2) If, at the time of the alleged violation, the person employs one or more employees, the
23 civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for
24 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay
25 period for each subsequent violation.

26 42. As a direct and proximate result of Defendant’s conduct as alleged above, Plaintiff and
27 the Aggrieved Employees are entitled to a civil penalty of at least fifty dollars (\$50) for the initial pay
28 period, and at least one hundred dollars (\$100) for each subsequent pay period for which Defendant
violated the Labor Code and applicable Wage Order as alleged herein.

1 43. Pursuant to Labor Code § 2698, *et seq.*, Plaintiff seeks to recover civil penalties only as
2 prescribed by the Labor Code Private Attorneys General Act of 2004 as the representative of the State of
3 California for the illegal conduct perpetrated on Plaintiff and the Aggrieved Employees.

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a jury trial on issues triable to a jury.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for judgment as follows:

- 8 1. For recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of
9 2004, Labor Code § 2698, *et seq.*;
- 10 2. An award of penalties, attorneys' fees and costs of suit, as allowable under the law, including, but
11 not limited to, pursuant to Labor Code sections 2698, *et seq.*; and
- 12 3. For such other and further relief as the Court deems just and proper.

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15 Dated: July 7, 2021

Respectfully submitted,

16 **LAW OFFICES OF SEAN S. VAHDAT**
17 **& ASSOCIATES APLC**

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20 Sean S. Vahdat, Esq.
21 Attorneys for Plaintiffs and Members
22 of the General Public
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