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

SANJIV PANG, in his representative capacity
under the Private Attorneys General Act of 2004
("PAGA"),

Plaintiff,

v.

GOBRANDS, INC. D/B/A GOPUFF, a Delaware
Corporation; GBL CALIFORNIA, LLC, a
Delaware Limited Liability Company; and DOES
1 through 100, inclusive,

Defendants.

Case No. **21AVCV00887**

COMPLAINT

(1) Violation of California Labor Code § 2698 et
seq. (California Labor Code Private Attorney
General Act of 2004)

DEMAND FOR JURY TRIAL

1 Plaintiff SANJIV PANG (“Plaintiff”) in his representative capacity under the Private Attorneys
2 General Act of 2004, files this Complaint against Defendants GOBRANDS, INC. D/B/A GOPUFF, GBL
3 CALIFORNIA, LLC, and DOES 1 through 100, inclusive (collectively “Defendants”). Plaintiff’s
4 allegations are based upon information and belief and upon investigation of Plaintiff’s counsel, except for
5 allegations specifically pertaining to Plaintiff, which are based upon Plaintiff’s personal knowledge.

6 **JURISDICTION AND VENUE**

7 1. The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdiction
8 limits of the Superior Court and will be established according to proof at trial.

9 2. This Court has jurisdiction over this action pursuant to the California Constitution, Article
10 VI, section 10, which grants the Superior Court “original jurisdiction in all causes except those given by
11 statute to other courts.” The statutes under which this action is brought do not specify any other basis for
12 jurisdiction.

13 3. This Court has jurisdiction over all Defendants because each defendant is either a citizen
14 of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the
15 California market so as to render the exercise of jurisdiction over it by the California courts consistent
16 with traditional notions of fair play and substantial justice.

17 4. Venue is proper in this Court because, upon information and belief, the named Defendants
18 reside, transact business, or have offices in this county and the acts and omissions alleged herein took
19 place in this county.

20 **PARTIES**

21 5. Plaintiff SANJIV PANG (“Plaintiff”) is a citizen of the State of California.

22 6. Defendant GOBRANDS, INC. D/B/A GOPUFF is a corporation organized and existing
23 under the laws of the State of Delaware, and transacts business throughout the State of California,
24 including the County of Los Angeles. At all relevant times, Defendant GOBRANDS, INC. D/B/A
25 GOPUFF was the “employer” of Plaintiff within the meaning of all applicable state laws and statutes.

26 7. Defendant GBL CALIFORNIA, LLC is a limited liability company organized and existing
27 under the laws of the State of Delaware, and transacts business throughout the State of California,
28 including the County of Los Angeles. At all relevant times, Defendant GBL CALIFORNIA, LLC was

1 the “employer” of Plaintiff within the meaning of all applicable state laws and statutes.

2 8. At all times herein relevant, Defendants, and each of them, were the agents, partners, joint
3 venturers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each
4 of the other, and at all times relevant hereto were acting within the course and scope of their authority as
5 such agents, partners, joint venturers, representatives, servants, employees, successors, co-conspirators
6 and assigns, and that all acts or omissions alleged herein were duly committed with the ratification,
7 knowledge, permission, encouragement, authorization and consent of each defendant designated herein.

8 9. The true names and capacities, whether corporate, associate, individual or otherwise, of
9 defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues said defendants by such
10 fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that
11 each of the defendants designated as a Doe is legally responsible for the events and happenings referred
12 to in this complaint, and unlawfully caused the injuries and damages to Plaintiff alleged in this complaint.
13 Plaintiff will seek leave of court to amend this complaint to show the true names and capacities when the
14 same have been ascertained

15 10. Defendants will hereinafter collectively be referred to as “Defendants” or “GoPuff.”

16 **FACTUAL ALLEGATIONS**

17 11. GoPuff is a delivery company that lets consumers order and quickly receive a host of
18 convenience items through its smartphone application, including college essentials, party supplies,
19 alcohol, snacks, frozen foods, and household goods. To do this, GoPuff contracts with Plaintiff and the
20 other aggrieved employees as Drivers to deliver packages to people in their local area. The Drivers sign
21 up with GoPuff directly to provide these services and report to centralized warehouses where they have
22 wait to start receiving orders. Indeed, Drivers are required to show up at the warehouses at the start of
23 their official shifts because all deliveries come from the warehouses instead of restaurants or stores.
24 Once they pick up the order at the warehouse, GoPuff directs them where they have to deliver the items.
25 Once they’re finished with a delivery, they report back to the warehouse and the process starts over
26 again until they’re finished with their shift.

27 12. The Drivers work on set shifts, have no ability to reject or select orders, and report to
28 direct supervisors who are in charge of their work and what assignments they receive. Drivers can also

1 be terminated if they miss a single shift or if they do not work the entirety of their pre-set shift.

2 13. Applicants can sign up to be a driver through the GoPuff app or its website. Applicants
3 must be at least 21 years old, have a valid U.S. driver's license, have a working vehicle, maintain vehicle
4 insurance and registration, own a smartphone in order to receive orders, and be willing and able to pass
5 a pre-paid alcohol delivery training course.

6 14. GoPuff classifies all Drivers as independent contractors. As such, it does not provide
7 them with meal breaks, rest breaks, minimum wage, overtime, accurate itemized wage statements,
8 benefits, reporting time pay, timely wages during and after employment, reimbursement for mileage
9 and/or gas, or any other basic protection afforded to employees.

10 15. In reality, GoPuff has willfully misclassified Drivers as independent contractors in order
11 to minimize costs and unduly maximize profits at the expense of its primary workforce. Drivers are
12 under the control and direction of GoPuff in connection with the performance of their work, perform
13 work that is part of the usual course of GoPuff's business, and are not customarily engaged in an
14 independently established trade, occupation or business in the same nature of the work performed for
15 GoPuff.

16 16. GoPuff willfully misclassifies its Drivers as independent contractors to deprive them of
17 fundamental employment rights, such as the right to minimum wages, the right to overtime, the right to
18 mandated meal breaks, the right to mandated rest breaks, the right to premium wages for missed meal
19 and rest breaks, the right to accurate itemized wage statements, the right to the prompt payment of full
20 wages within time limits designated by law, and the right to be reimbursed for necessary business
21 expenses.

22 17. GoPuff's Drivers are misclassified because they are under the control and direction of
23 GoPuff in connection with the performance of their work, perform work that is part of the usual course
24 of GoPuff's business, and are not customarily engaged in an independently established trade,
25 occupation, or business in the same nature of the work performed for GoPuff.

26 18. Defendants employed Plaintiff and the other aggrieved employees as Drivers and willfully
27 misclassified them as independent contractors.

28 19. Defendants have the authority to hire and terminate Plaintiff and the other aggrieved

employees; to set work rules and conditions governing Plaintiff and the other aggrieved employees; and to supervise their daily employment activities.

20. Defendants directly hired and paid wages and benefits to Plaintiff and the other aggrieved employees.

21. Plaintiff is informed and believes, and based thereon alleges, that at all times herein relevant, Defendants were advised by skilled lawyers and other professionals, employees, advisors, and consultants highly knowledgeable about California wage law, employment and personnel practices.

22. Plaintiff is informed and believes, and based thereon alleges, that at all times herein relevant, without any justification, Defendants ignored the employment and personnel policy changes proposed by skilled lawyers and other professionals, employees, advisors, and consultants highly knowledgeable about California wage laws, employment, and personnel practice.

23. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and aggrieved employees were entitled to receive certain wages for all work performed, including for overtime compensation.

24. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were working over eight (8) hours per day and were entitled to receive certain wages for overtime compensation and that they were not receiving wages for overtime compensation.

25. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly paid employees.

26. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide Plaintiff and the other aggrieved employees the required rest and meal periods during the relevant time period as required under the Industrial Welfare Commission Wage Orders and/or applicable Labor Codes, thus are entitled to any and all applicable penalties.

27. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of pay when a meal period was missed.

1 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
2 should have known that Plaintiff and the other aggrieved employees were entitled to receive all rest periods
3 or payment of one additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of
4 pay when a rest period was missed.

5 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
6 should have known that Plaintiff and the other aggrieved employees were entitled to receive all wages
7 owed to them upon discharge or resignation.

8 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
9 should have known that Plaintiff and the other aggrieved employees were entitled to receive complete and
10 accurate wage statements in accordance with California law.

11 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
12 should have known that they had a duty to compensate Plaintiff and the other aggrieved employees
13 pursuant to California law, and that Defendants had the financial ability to pay such compensation, but
14 willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and the other
15 aggrieved employees that they were properly denied wages, all in order to increase Defendants' profits.

16 32. At all material times set forth herein, Defendants regularly and consistently failed to
17 compensate Plaintiff and the other aggrieved employees for all hours worked.

18 33. At all material times set forth herein, Defendants failed to fully comply with the relevant
19 provision of the Labor Code and the IWC orders to pay overtime wages to Plaintiff and the other aggrieved
20 employees.

21 34. At all material times set forth herein, Defendants failed to fully comply with the relevant
22 provision of the Labor Code and the IWC orders to provide uninterrupted meal and rest periods to Plaintiff
23 and the other aggrieved employees.

24 35. At all material times set forth herein, Defendants regularly and consistently failed to
25 provide complete and accurate wage statements to Plaintiff and the other aggrieved employees.

26 36. At all material times set forth herein, Defendants regularly and consistently failed to pay
27 Plaintiff and the other aggrieved employees all wages owed to them upon discharge or resignation.

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PAGA ALLEGATIONS

37. At all times herein set forth, PAGA was applicable to Plaintiff's employment by Defendants.

38. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

39. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

40. Plaintiff was employed by Defendants and the alleged violations were committed against him during his time of employment and he is therefore, an aggrieved employee. Plaintiff is an "aggrieved employee" as defined by California Labor Code section 2699, subdivision (c).

41. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

- a. The aggrieved employee shall give written notice by certified mail (hereinafter "Employee's Notice") to the LWDA and the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- b. The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee's Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within thirty-three (65) calendar days of the postmark date of the Employee's Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any

1 other penalties to which the employee may be entitled.

2 42. On August 23, 2021, Plaintiff provided written notice by certified mail to the LWDA and
3 to Defendants of the specific provisions of the California Labor Code alleged to have been violated,
4 including the facts and theories to support the alleged violations. A true and correct copy of the notice is
5 attached hereto as **Exhibit “A.”** Plaintiff has not received any response from the LWDA.

6 43. Plaintiff satisfied the administrative prerequisites under California Labor Code section
7 2699.3, subdivision (a), to recover civil penalties against Defendants in addition to other remedies, for
8 violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 226.8, 350, 351, 353, 510,
9 511, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, and all applicable wage orders.

10 **FIRST CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 2698, et seq.)**

12 **(Against Defendants GOBRANDS D/B/A GOPUFF, GBL CALIFORNIA, LLC, and DOES**
13 **1 through 100)**

14 44. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 43,
15 and each and every part thereof with the same force and effect as though fully set forth herein.

16 45. PAGA expressly establishes that any provision of the California Labor Code which
17 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
18 divisions, commissions, boards, agencies or employees for a violation of the California Labor Code,
19 may be recovered through a civil action brought by an aggrieved employee on behalf of himself or
20 herself, and other current or former employees.

21 46. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
22 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
23 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

24 47. Plaintiff and the other non-exempt or hourly employees are “aggrieved employees” as
25 defined by California Labor Code section 2699, subdivision (c) in that they are all current or former
26 employees of Defendants, and one or more of the alleged violations was committed against them.

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1 **Failure to Pay Overtime**

2 48. California Labor Code sections 510 and 1198 and the applicable wage order require
3 employers to pay their employees overtime compensation equal to one and one-half times their regular
4 rate of pay for all hours worked in excess of eight hours in one day and/or over 40 hours in a week.

5 49. Defendants do not pay Plaintiff and the other aggrieved employees overtime
6 compensation when they worked in excess of eight hours in one day and/or over 40 hours in a week as
7 alleged above.

8 **Failing to Provide Meal Periods**

9 50. California Labor Code sections 226.7 and 512 and the applicable wage order require
10 employers to pay their employees one additional hour of pay at the employee's regular rate of pay for
11 each workday that a meal period is not provided when it should have been.

12 51. Defendants do not provide Plaintiff and the other aggrieved employees with meal periods
13 when it should have, nor does it pay them premium pay as alleged above.

14 **Failure to Provide Rest Periods**

15 52. California Labor Code sections 226.7 and 512 and the applicable wage order require
16 employers to pay their employees one additional hour of pay at the employee's regular rate of pay for
17 each workday that a rest break is not provided when it should have been.

18 53. Defendants do not provide Plaintiff and the other aggrieved employees with rest breaks
19 when it should have, nor does it pay them premium pay as alleged above.

20 **Failure to Pay Minimum Wages**

21 54. California Labor Code sections 1194, 1197, and 1197.1 and the applicable wage order
22 require employers to pay their employees at least the minimum wage for each hour worked.

23 55. Defendants do not pay Plaintiff and the other aggrieved employees the minimum wage
24 for each hour they worked as alleged above.

25 **Failure to Timely Pay Wages Upon Termination**

26 56. California Labor Code sections 201, 202, and 203 and the applicable wage order provide
27 that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are
28 due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or

1 her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee
2 has given seventy-two hours previous notice of his or her intention to quit, in which case the employee
3 is entitled to his or her wages at the time of quitting.

4 57. As explained above, Defendants failed to pay Plaintiff and the other aggrieved minimum
5 wage for each hour of work they performed, failed to pay them overtime when they worked in excess
6 of eight hours in one day and/or over 40 hours in a week, and failed to pay them one additional hour of
7 pay at their regular rate of pay when they were not provided meal periods and rest breaks. Accordingly,
8 these wages are not timely paid to Plaintiff and the other aggrieved employees upon their discharge or
9 termination.

10 **Failure to Timely Pay Wages During Employment**

11 58. California Labor Code section 204 and the applicable wage order require that all wages
12 earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar
13 month, other than those wages due upon termination of an employee, are due and payable between the
14 16th and the 26th day of the month during which the labor was performed, and that all wages earned by
15 any person in any employment between the 16th and the last day, inclusive, of any calendar month,
16 other than those wages due upon termination of an employee, are due and payable between the 1st and
17 the 10th day of the following month. Labor Code section 204 also requires that all wages earned for
18 labor in excess of the normal work period shall be paid no later than the payday for the next regular
19 payroll period.

20 59. As explained above, Defendants failed to pay Plaintiff and the other aggrieved employees
21 minimum wage for each hour of work they performed, failed to pay them overtime when they worked
22 in excess of eight hours in one day and/or over 40 hours in a week, and failed to pay them one additional
23 hour of pay at their regular rate of pay when they were not provided meal periods and rest breaks.
24 Accordingly, these wages are not timely paid Plaintiff and the other aggrieved employees during their
25 employment.

26 **Failure to Provide Compliant Wage Statements**

27 60. California Labor Code section 226 and the applicable wage order require employers to
28 make, keep, and provide true, accurate, timely, and complete wage statement.

1 61. Defendants do not provide Plaintiff and the other aggrieved employees with true,
2 accurate, timely, and complete wage statements because they classify them as independent contractors,
3 not employees.

4 **Failure to Keep Complete and Accurate Payroll Records**

5 62. California Labor Code section 1174, subdivision (d), and the applicable Wage Order
6 requires employers to keep, at a central location in the state or at the plants or establishments at which
7 employees are employed, payroll records showing the hours worked daily by and the wages paid to, and
8 the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at
9 the respective plants or establishments. These records shall be kept in accordance with rules established
10 for this purpose by the commission, but in any case shall be kept on file for not less than two years.

11 63. Defendants intentionally and willfully failed to keep accurate and complete payroll
12 records, including but not limited to, failing to keep at a central location in the State of California payroll
13 records showing the hours worked daily by and the wages paid to, or the number of piece rate units
14 earned by or any applicable piece rate paid to, Drivers. This is because Defendants failed to pay Plaintiff
15 and the other aggrieved employees minimum wage for each hour of work they performed, failed to pay
16 them overtime when they worked in excess of eight hours in one day and/or over 40 hours in a week,
17 and failed to pay them one additional hour of pay at their regular rate of pay when they were not provided
18 meal periods and rest breaks.

19 **Failure to Reimburse Necessary Business-Related Expenses and Costs**

20 64. California Labor Code sections 2800 and 2802 and the applicable Wage Order require an
21 employer to reimburse its employee for all necessary expenditures incurred by the employee in direct
22 consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to
23 the directions of the employer.

24 65. Plaintiff and the other aggrieved employees incurred necessary business-related
25 expenses, such as mileage costs, that were not fully reimbursed by Defendants because they classify
26 them as independent contractors, not employees.

27 **Willful Misclassification**

28 66. Labor Code section 226.8 and the applicable IWC Wage Order makes it unlawful to (1)

1 willfully misclassify an individual as an independent contractor or (2) charge an individual who has been
2 willfully misclassified as an independent contractor a fee, or making any deductions from compensation,
3 for any purpose, including for goods, materials, space rental, services, government licenses, repairs,
4 equipment maintenance, or fines arising from the individual's employment where any of the acts described
5 in this paragraph would have violated the law if the individual had not been misclassified.

6 67. Defendants willfully misclassified Plaintiff and the other aggrieved employees as
7 independent contractors because they blatantly perform work that is part of the usual course of
8 Defendants' business and, despite being advised by skilled attorneys, Defendants classified them—and
9 continues to classify them—as independent contractors.

10 **Seven Day Workweek**

11 68. Labor Code section 551 and the applicable Wage Order state employees are entitled to
12 one day's rest therefrom in seven. They also state employers cannot cause their employees to work
13 more than six days in seven. Drivers sometimes work weeks without a day off.

14 **Illegal Tipping**

15 69. In addition to the misclassification issues, Drivers are guaranteed to make an hourly rate
16 depending on a variety of factors. When a package is delivered, customers are given the option of
17 tipping their driver. However, GoPuff counts tips toward meeting the minimum hourly guarantee. Thus,
18 the bigger the tip, the less GoPuff has to pay its Drivers. The only way a driver can earn more than the
19 minimum hourly guarantee is for a customer to tip more than the minimum hourly guarantee. If that
20 occurs, GoPuff pays the driver nothing.

21 70. This pay scheme violates Labor Code section 351 and 353.

22 71. Labor Code section 351 states: "No employer or agent shall collect, take, or receive any
23 gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount
24 from wages due an employee on account of a gratuity, or require an employee to credit the amount, or
25 any part thereof, of a gratuity against and as a part of the wages due the employee from the employer.
26 Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was
27 paid, given, or left for. An employer that permits patrons to pay gratuities by credit card shall pay the
28 employees the full amount of the gratuity that the patron indicated on the credit card slip, without any

1 deductions for any credit card payment processing fees or costs that may be charged to the employer by
2 the credit card company. Payment of gratuities made by patrons using credit cards shall be made to the
3 employees not later than the next regular payday following the date the patron authorized the credit card
4 payment.” (Lab Code, § 351.)

5 72. Labor Code section 353 states: “Every employer shall keep accurate records of all
6 gratuities received by him, whether received directly from the employee or indirectly by means of
7 deductions from the wages of the employee or otherwise. Such records shall be open to inspection at
8 all reasonable hours by the department.” (Lab Code, § 353.)

9 73. “Employer” is defined as “every person engaged in any business or enterprise in this state
10 that has one or more persons in service under any appointment, contract of hire, or apprenticeship,
11 express or implied, oral or written, irrespective of whether the person is the owner of the business or is
12 operating on a concessionaire or other basis.” (Lab Code, § 350, subd. (a).) This definition covers
13 GoPuff.

14 74. “Employee” is defined as “every person, including aliens and minors, rendering actual
15 service in any business for an employer, whether gratuitously or for wages or pay, whether the wages
16 or pay are measured by the standard of time, piece, task, commission, or other method of calculation,
17 and whether the service is rendered on a commission, concessionaire, or other basis.” (Lab Code, § 350,
18 subd. (b).) This definition covers Drivers even though they are classified as independent contractors.

19 75. “Gratuity” is defined as “any tip, gratuity, money, or part thereof that has been paid or
20 given to or left for an employee by a patron of a business over and above the actual amount due the
21 business for services rendered or for goods, food, drink, or articles sold or served to the patron.” (Lab
22 Code, § 350, subd. (d).)

23 76. GoPuff has violated Labor Code section 351 because it uses customer tips to meet its
24 Drivers’ minimum hourly guarantee.

25 77. GoPuff has violated Labor Code section 353 because it includes customer tips in the
26 minimum hourly guarantee and therefore does keep accurate records of the Drivers’ tips. It also does
27 not allow driver to access records showing how much they have received in tips.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for relief and judgment against Defendants, jointly and severally, as
3 follows

4 1. Pursuant to California Labor Code section 2699, Plaintiff requests and is entitled to
5 recover from Defendants civil penalties, including:

6 a. Penalties under California Labor Code section 2699 in the amount
7 of a hundred dollars (\$100) for each aggrieved employee per pay
8 period for the initial violation, and two hundred dollars (\$200) for
9 each aggrieved employee per pay period for each subsequent
10 violation;

11 b. Penalties under California Code of Regulations Title 8 section
12 11070 in the amount of fifty dollars (\$50) for each aggrieved
13 employee per pay period for the initial violation, and one hundred
14 dollars (\$100) for each aggrieved employee per pay period for each
15 subsequent violation;

16 c. Penalties under California Labor Code section 210 in addition to,
17 and entirely independent and apart from, any other penalty provided
18 in the California Labor Code in the amount of a hundred dollars
19 (\$100) for each aggrieved employee per pay period for the initial
20 violation, and two hundred dollars (\$200) for each aggrieved
21 employee per pay period for each subsequent violation; and

22 d. Any and all additional penalties and sums as provided by the
23 California Labor Code and/or other statutes.

24 2. Pursuant to California Labor Code section 2699, subdivision (i), civil penalties recovered
25 by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and
26 Workforce Development Agency for the enforcement of labor laws and education of employers and
27 employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved
28 employees.

1 3. Plaintiff is not seeking any sort of individualized (i.e., victim-specific) relief as described
2 in *Esparza v. KS Industries, L.P.* (2007) 13 Cal.App.5th 1228.

3 4. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs
4 pursuant to California Labor Code section 2699, 218.5, 210, and any other applicable statute.

5
6 Date: November 3, 2021

PARRIS LAW FIRM

7
8 By: _____

Kitty K. Szeto
Attorneys for Plaintiff
and the Aggrieved Employees

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by a jury.

Date: November 3, 2021

PARRIS LAW FIRM

By: _____

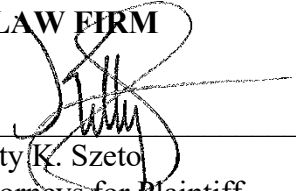

Kitty K. Szeto
Attorneys for Plaintiff
and the Aggrieved Employee

EXHIBIT “A”

August 23, 2021

FILED ONLINE

California Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: GoBrands, Inc. d/b/a/ GoPuff and GBL California, LLC

Dear Representative:

Our firm has been retained to represent Sanjiv Pang against GoBrands, Inc. d/b/a GoPuff and GBL California, LLC (collectively “GoPuff”) for violations of California labor law. As part of these violations, Mr. Pang intends to seek penalties under the Private Attorneys General Act of 2004 (“PAGA”). (See Lab. Code, §§ 2699, et seq.). Mr. Pang is seeking penalties on behalf of the State of California and all other aggrieved employees. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

GoBrands, Inc. is a corporation doing business as “GoPuff,” organized and existing under the laws of the State of Delaware, and conducts business throughout the State of California. Its corporate office is at 537 North Third Street, Philadelphia, Pennsylvania 19123. GBL California, LLC is also a corporation doing business as “GoPuff,” organized and existing under the laws of the State of Delaware, and conducts business throughout the State of California. Its corporate office is at 537 North Third Street, Philadelphia, Pennsylvania 19123.

GoPuff is a delivery company that lets consumers order and quickly receive a host of convenience items through its smartphone application, including college essentials, party supplies, alcohol, snacks, frozen foods, and household goods. To do this, GoPuff contracts with Drivers to deliver packages to people in their local area. The Drivers sign up with GoPuff directly to provide these services and report to centralized warehouses where they have wait to start receiving orders. Indeed, Drivers are required to show up at the warehouses at the start of their official shifts because all deliveries come from the warehouses instead of restaurants or stores. Once they pick up the order at the warehouse, GoPuff directs them where they have to deliver the items. Once they’re finished with a delivery, they report back to the warehouse and the process starts over again until they’re finished with their shift.

The Drivers work on set shifts, have no ability to reject or select orders, and report to direct supervisors who are in charge of their work and what assignments they receive. Drivers can also be terminated if they miss a single shift or if they do not work the entirety of their pre-set shift.

Applicants can sign up to be a driver through the GoPuff app or its website. Applicants must be at least 21 years old, have a valid U.S. driver’s license, have a working vehicle, maintain vehicle insurance and registration, own a smartphone in order to receive orders, and be willing and able to pass a pre-paid alcohol delivery training course.

GoPuff classifies all Drivers as independent contractors. As such, it does not provide them with meal breaks, rest breaks, minimum wage, overtime, accurate itemized wage statements, benefits, reporting time pay, timely wages during and after employment, reimbursement for mileage and/or gas, or any other basic protection afforded to employees.

In reality, GoPuff has willfully misclassified Drivers as independent contractors in order to minimize costs and unduly maximize profits at the expense of its primary workforce. Drivers are under the control and direction of GoPuff in connection with the performance of their work, perform work that is part of the usual course of GoPuff's business, and are not customarily engaged in an independently established trade, occupation or business in the same nature of the work performed for GoPuff.

Throughout the relevant time period, Mr. Pang has been one of GoPuff's Drivers and was classified by GoPuff as an independent contractor.

Through its unlawful misclassification scheme, GoPuff has violated and/or continues to violate Labor Code sections 201, 202, 203, 204, 226, 226.7, 226.8, 510, 511, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, and all applicable wage orders.

Labor Code sections 1194, 1197, and 1197.1 and the applicable Wage Order require employers to pay their employees at least the minimum wage for each hour worked. GoPuff does not pay Mr. Pang and the other Drivers the minimum wage for each hour they worked because it classifies them as independent contractors, not employees.

Labor Code sections 510 and 1198 and the applicable Wage Order require employers to pay their employees overtime compensation equal to one and one-half times their regular rate of pay for all hours worked in excess of eight hours in one day and/or over 40 hours in a week. GoPuff does not pay Mr. Pang and the other Drivers overtime compensation when they worked in excess of eight hours in one day and/or over 40 hours in a week because it classifies them as independent contractors, not employees.

Labor Code sections 226.7 and 512 and the applicable Wage Order require employers to pay their employees one additional hour of pay at the employee's regular rate of pay for each workday that a meal period or rest break is not provided. GoPuff does not provide Mr. Pang and the other Drivers with meal periods or rest breaks, nor does it pay them premium pay, because it classifies them as independent contractors, not employees.

Labor Code sections 201, 202, and 203 and the applicable Wage Order provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. As explained above, GoPuff failed to pay its Drivers minimum wage for each hour of work they performed, failed to pay them overtime when they worked in excess of eight hours in one day and/or over 40 hours in a week, and failed to pay

them one additional hour of pay at their regular rate of pay when they were not provided meal periods and rest breaks. Accordingly, these wages are not timely paid to GoPuff's Drivers upon their discharge or termination.

Labor Code section 204 and the applicable Wage Order require that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. As explained above, GoPuff failed to pay its Drivers minimum wage for each hour of work they performed, failed to pay them overtime when they worked in excess of eight hours in one day and/or over 40 hours in a week, and failed to pay them one additional hour of pay at their regular rate of pay when they were not provided meal periods and rest breaks. Accordingly, these wages are not timely paid to GoPuff's Drivers during their employment.

Labor Code section 226 and the applicable Wage Order requires employers to make, keep, and provide true, accurate, and complete wage statements. GoPuff does not provide Mr. Pang and the other Drivers with properly itemized wage statements because it classifies them as independent contractors, not employees.

Labor Code section 1174, subdivision (d), and the applicable Wage Order requires employers to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. GoPuff intentionally and willfully failed to keep accurate and complete payroll records, including but not limited to, failing to keep at a central location in the State of California payroll records showing the hours worked daily by and the wages paid to, or the number of piece rate unit earned by or any applicable piece rate paid to, Drivers. This is because GoPuff failed to pay its Drivers minimum wage for each hour of work they performed, failed to pay them overtime when they worked in excess of eight hours in one day and/or over 40 hours in a week, and failed to pay them one additional hour of pay at their regular rate of pay when they were not provided meal periods and rest breaks.

Labor Code sections 2800 and 2802 and the applicable Wage Order require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. Mr. Pang and the other Drivers incurred necessary business-related expenses, such as mileage costs, that were not fully reimbursed by GoPuff because it classifies them as independent contractors, not employees.

Labor Code section 226.8 and the applicable Wage Order make it unlawful to willfully misclassify an individual as an independent contractor. GoPuff willfully misclassified its Drivers as independent contractors because they blatantly perform work that is part of the usual course of GoPuff's business and, despite being advised by skilled attorneys, GoPuff classified them—and continues to classify them—as independent contractors.

Labor Code section 551 and the applicable Wage Order state employees are entitled to one day's rest therefrom in seven. They also state employers cannot cause their employees to work more than six days in seven. Drivers sometimes work weeks without a day off.

In addition to the misclassification issues, Drivers are guaranteed to make an hourly rate depending on a variety of factors. When a package is delivered, customers are given the option of tipping their driver. However, GoPuff counts tips toward meeting the minimum hourly guarantee. Thus, the bigger the tip, the less GoPuff has to pay its Drivers. The only way a driver can earn more than the minimum hourly guarantee is for a customer to tip more than the minimum hourly guarantee. If that occurs, GoPuff pays the driver nothing.

This pay scheme violates Labor Code section 351 and 353.

Labor Code section 351 states: "No employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for. An employer that permits patrons to pay gratuities by credit card shall pay the employees the full amount of the gratuity that the patron indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Payment of gratuities made by patrons using credit cards shall be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment." (Lab Code, § 351.)

Labor Code section 353 states: "Every employer shall keep accurate records of all gratuities received by him, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Such records shall be open to inspection at all reasonable hours by the department." (Lab Code, § 353.)

"Employer" is defined as "every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether the person is the owner of the business or is operating on a concessionaire or other basis." (Lab Code, § 350, subd. (a).)

"Employee" is defined as "every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay, whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation, and

whether the service is rendered on a commission, concessionaire, or other basis.” (Lab Code, § 350, subd. (b).)

“Gratuity” is defined as “any tip, gratuity, money, or part thereof that has been paid or given to or left for an employee by a patron of a business over and above the actual amount due the business for services rendered or for goods, food, drink, or articles sold or served to the patron.” (Lab Code, § 350, subd. (d).)

GoPuff has violated Labor Code section 351 because it uses customer tips to meet its Drivers’ minimum hourly guarantee.

GoPuff has violated Labor Code section 353 because it includes customer tips in the minimum hourly guarantee and therefore does keep accurate records of the Drivers’ tips. It also does not allow driver to access records showing how much they have received in tips.

Therefore, on behalf of all aggrieved employees, Mr. Pang seeks all penalties related to the above-mentioned violations of the California Labor Code under PAGA.

If you have questions or require additional information, please contact us. Thank you for your attention to this matter.

PARRIS LAW FIRM



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