

Jonathan M. Lebe (State Bar No. 284605)
Jon@lebelaw.com
Melissa M. Kurata (State Bar No. 285388)
Melissa@lebelaw.com
Lebe Law, APLC
3900 W. Alameda Street, 15th Floor
Burbank, CA 91505
Telephone: (213) 444-1973

Attorneys for Plaintiffs Jennifer Pardo and Evangeline Matthews,
As Private Attorneys General on behalf of the State of California

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Superior Court of California,
County of Alameda
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

Jennifer Pardo and Evangeline Matthews,
as Private Attorneys General on behalf of
the State of California,

Plaintiff,

vs.

Papa, Inc.; and Does 1 through 20,
inclusive,

Defendants.

Case No. **26CV171867**

REPRESENTATIVE ACTION COMPLAINT
FOR:

VIOLATION OF THE CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS GENERAL
ACT OF 2004 (CAL. LABOR CODE §§ 2698,
ET SEQ.)

1 Plaintiffs Jennifer Pardo and Evangeline Matthews (“Plaintiffs”) as Private Attorneys
2 General on behalf of the State of California, hereby allege as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs bring this representative action against Defendant Papa, Inc. (“Defendant
5 Papa”), and Does 1 through 20, inclusive (collectively, “Defendants”), in their representative
6 capacities as a Private Attorneys General on behalf of the State of California. Plaintiffs seek to
7 recover civil penalties for all California-based aggrieved employees.

8 2. Defendant Papa Inc. is a Delaware corporation and is in the business of providing
9 services to senior citizens living in California.

10 3. More than 65 days ago, Plaintiffs gave notice of these claims to the California Labor
11 and Workforce Development Agency (“LWDA”) and to the agent for service of process for each
12 Defendant. Plaintiffs have not received a response from the LWDA indicating that it intends to
13 investigate these claims. Accordingly, Plaintiffs have exhausted all notice requirements under the
14 Private Attorneys General Act of 2004 (“PAGA”). Plaintiffs assert claims for civil penalties as
15 representatives of the State of California, as authorized by the PAGA, and to the extent permitted
16 by law, on behalf of aggrieved employees who held the positions identified herein and suffered
17 one or more of the violations alleged. Labor Code §§ 2698, *et seq.*

18 4. Through this action, Plaintiffs allege that Defendants have engaged in a systematic
19 pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

20 5. Plaintiffs are informed and believe, and thereon allege, Defendants had a consistent
21 policy of violating state wage and hour laws by, among other things:

- 22 (a) Misclassifying aggrieved employees as independent contractors;
- 23 (b) Failing to pay all wages for all hours worked, including minimum, regular,
24 and overtime wages;
- 25 (c) Failing to provide legally compliant off-duty meal periods or compensation
26 in lieu thereof;
- 27 (d) Failing to provide legally compliant duty-free rest breaks or provide
28 compensation in lieu thereof;

- (e) Failing to indemnify all reasonable and necessary business expenses;
- (f) Failing to provide all mandatory paid sick leave;
- (g) Failing to maintain time and payroll records;
- (h) Failing to provide adequate workers' compensation coverage;
- (i) Failing to provide accurate, itemized wage statements; and
- (j) Failing to pay all wages due upon termination or separation of employment.

6. Plaintiffs bring this representative action seeking monetary relief against Defendants on behalf of the aggrieved employees to recover, among other things, penalties, attorney's fees, costs and expenses pursuant to the PAGA.

JURISDICTION AND VENUE

7. The monetary relief sought by Plaintiffs exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

8. The Superior Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

9. The Superior Court has jurisdiction over all Defendants because, upon information and belief, Defendants transact business and have offices in this county, acts and omissions alleged herein took place in this county and Defendants intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

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

THE PARTIES

11. Plaintiffs are citizens of California and were employed by Defendants in California.

12. Plaintiffs are informed and believe, and thereon allege, that Defendant Papa, Inc. was and is a Delaware corporation in the business of providing services to senior citizens living in

1 California and at all times hereinafter mentioned, was and is an employer as defined in and subject
2 to the California Labor Code and Industrial Welfare Commission ("IWC") Wage Orders, whose
3 employees are and were engaged throughout this county and the State of California.

4 13. Plaintiffs are unaware of the true names or capacities of the defendants sued herein
5 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
6 Complaint and serve such fictitiously named defendants once their names and capacities become
7 known.

8 14. Plaintiffs are informed and believe and thereon allege, that DOES 1 through 20 are
9 or were the partners, agents, owners, shareholders, managers, or employees of Defendants at all
10 relevant times.

11 15. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts
12 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
13 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's
14 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
15 policy of Defendants.

16 16. Plaintiffs are informed and believe and thereon allege, that each of the Defendants
17 is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions,
18 occurrences, and transactions alleged herein.

19 **GENERAL ALLEGATIONS**

20 17. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
21 persons as non-exempt employees.

22 18. Defendants employed Plaintiffs.

23 19. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
24 herein, Defendants were advised by skilled lawyers, employees, and other professionals who were
25 knowledgeable about California's wage and hour laws, employment and personnel practices, and
26 the requirements of California law.

27 20. Through this action, Plaintiffs allege that Defendants have engaged in a systematic
28 pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

1 21. Plaintiffs performed services for Defendants. Plaintiffs were classified by
2 Defendants as independent contractors. Plaintiffs are informed and believe, and thereon allege,
3 that at all times mentioned herein, Defendant misclassified their workers in violation of applicable
4 state and federal law.

5 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
6 should have known that Plaintiffs and other aggrieved employees were entitled to receive wages
7 for all time worked and that they were not receiving all wages earned for work that was required
8 to be performed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and aggrieved
9 employees were not paid wages (including minimum wages and overtime wages) when
10 Defendants failed to pay or underpaid Plaintiffs and aggrieved employees for all hours worked,
11 including time spent on standby waiting for a call so Plaintiffs and aggrieved employees could
12 speak and interact with Defendants' customers, time spent training, time spent traveling from one
13 workplace to another, time spent recording notes, and time spent setting up appointments.

14 23. Plaintiffs are informed and believe, and thereon allege, Defendants failed to provide
15 Plaintiffs and aggrieved employees timely, uninterrupted, off-duty meal periods of no less than
16 thirty minutes for each period of five hours worked. Plaintiffs and aggrieved employees would
17 also often be required to work through meal periods, would be otherwise interrupted during their
18 meal period, or would take late meal periods without being paid meal period premiums at the
19 regular rate in lieu. These policies, among others, have resulted in a denial of these employees'
20 rights to 30-minute meal periods in violation of California law.

21 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known that Plaintiffs and aggrieved employees were entitled to receive all required
23 meal periods or payment of one (1) additional hour of pay at Plaintiffs and aggrieved employees'
24 regular rate of pay when they did not receive a timely meal period. In violation of the Labor Code
25 and IWC Wage Orders, Plaintiffs and aggrieved employees did not receive all timely meal periods
26 or payment of one (1) additional hour of pay at Plaintiffs and aggrieved employees' regular rate of
27 pay when they did not receive a timely, uninterrupted meal periods.

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1 25. Upon information and belief, Defendants failed to provide Plaintiffs and aggrieved
2 employees timely, uninterrupted, on-the-clock rest periods of no less than ten minutes for every
3 four hours worked, or every major fraction thereof. Defendants also routinely failed to provide
4 Plaintiffs and aggrieved employees with a second rest period for shifts lasting longer than six
5 hours, or a third rest period for shifts lasting longer than ten hours. These policies, among others,
6 have resulted in a denial of these aggrieved employees' rights to a ten-minute rest period in
7 violation of California law.

8 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
9 should have known that Plaintiffs and aggrieved employees were entitled to receive all rest breaks
10 or payment of one (1) additional hour of pay at the aggrieved employees' regular rate of pay when
11 a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and
12 aggrieved employees did not receive all rest breaks or payment of one (1) additional hour of pay
13 at their regular rate of pay when a rest break was missed.

14 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known that Plaintiffs and other aggrieved employees under the PAGA were entitled
16 to sick leave and notice on their wage statements or other separate written statements that listed
17 the balance of paid sick leave that they should have been accruing. In violation of the California
18 Labor Code, Plaintiffs and other aggrieved employees did not receive sick leave and notice on
19 their wage statements or other separate written statements that listed the balance of paid sick leave
20 that they should have been accruing.

21 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known that Plaintiffs and aggrieved employees were entitled to reimbursement for
23 necessary expenditures incurred in connection with the performance and execution of their job
24 duties. In violation of the California Labor Code, Plaintiffs and aggrieved employees did not
25 receive adequate reimbursement for necessary business expenses, including but not limited to
26 reimbursement for use of their personal cell phones, vehicles/transportation costs, and personal
27 protective equipment. Thus, in violation of the Labor Code, Plaintiffs and aggrieved employees
28 did not receive reimbursements for all business expenses.

1 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and aggrieved employees were entitled to receive itemized wage
3 statements that accurately showed their gross and net wages earned, inclusive dates of pay periods,
4 total hours worked, and all applicable hourly rates in effect and the number of hours worked at
5 each hourly rate in accordance with California law. In violation of the Labor Code, Plaintiffs and
6 aggrieved employees were not provided with accurate itemized wage statements.

7 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
8 should have known that Plaintiffs and aggrieved employees who separated from Defendants were
9 entitled to timely payment of wages upon separation of employment. In violation of the Labor
10 Code, Plaintiffs and aggrieved employees did not receive payment of all wages including, but not
11 limited to, unpaid regular, minimum, and overtime wages, meal periods premiums, and rest break
12 premiums within the required time during their employment and upon separation of their
13 employment.

14 31. Plaintiffs are informed and believe, and thereon allege, that Defendants have failed
15 to maintain Plaintiffs' and other aggrieved employees time and payroll records as required under
16 the California Labor Code. For example, Defendants failed to pay Plaintiffs and other aggrieved
17 employees all wages for all time worked, including when and other aggrieved employees would
18 spend time on standby waiting for a call so the aggrieved employee could speak and interact with
19 Defendants' customers.

20 32. Plaintiffs are informed and believe, and thereon allege, that in violation of the
21 California Labor Code, Defendants have failed to secure worker's compensation coverage and/or
22 insurance for Plaintiffs and the aggrieved employees under the PAGA as a direct result of
23 Defendants' willful misclassification of such employees as independent contractors.

24 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
25 should have known they had a duty to compensate Plaintiffs and aggrieved employees, and
26 Defendants had the financial ability to pay such compensation but willfully, knowingly and
27 intentionally failed to do so all in order to increase Defendants' profits.

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1 **FIRST CAUSE OF ACTION**

2 **ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. ("PAGA")**

3 34. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
4 though fully set forth herein.

5 35. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
6 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
7 ("LWDA") or any of its departments, divisions, commissions, boards, agencies or employees for
8 violation of the code may, as an alternative, be recovered through a civil action brought by an
9 aggrieved employee on behalf of themselves and a private attorney general on behalf of the State
10 of California, for both their own claims and the claims of other current or former employees
11 pursuant to the procedures specified in Labor Code § 2699.3.

12 36. For all provisions of the Labor Code except those for which a civil penalty is
13 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
14 dollars (\$100.00) for each aggrieved employee per pay period for the initial violations and two
15 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
16 period in which Defendants violated these provisions of the Labor Code.

17 37. Defendants' conduct with respect to Plaintiffs and other aggrieved employees
18 violates numerous Labor Code sections including, but not limited to, the following:

- 19 a. Violation of Labor Code § 226.8 for willful failure to properly classify workers
20 as employees;
- 21 b. Violation of Labor Code §§ 201, 202, 203, 204, 210, 510, 511, 558, 1182.12,
22 1194, 1197 and 1198 for failure to timely pay all earned wages (including
23 minimum wages and overtime wages) owed to aggrieved employees during
24 employment and upon separation of employment as herein alleged;
- 25 c. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods
26 to Plaintiffs and other aggrieved employees and failure to pay premium wages
27 for missed meal periods as herein alleged;

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- 1 d. Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiffs
2 and other aggrieved employees and failure to pay premium wages for missed
3 rest periods as herein alleged;
- 4 e. Violation of Labor Code §§ 2800 and 2802 for failure to reimburse reasonable
5 and necessary business expenses of Plaintiffs and other aggrieved employees as
6 herein alleged;
- 7 f. Violation of Labor Code §§ 226 for failure to provide accurate itemized wage
8 statements;
- 9 g. Violation of Labor Code §§ 201-204, 256, 1198, and 2699 for failure to timely
10 pay all wages due during and upon termination of employment;
- 11 h. Violation of Labor Code § 246 for willfully failing to provide all mandatory
12 paid sick leave;
- 13 i. Violation of Labor Code §§ 1178 and 1198 for willfully failing to maintain
14 Plaintiffs and aggrieved employees' time and payroll records; and
- 15 j. Violation of Labor Code § 3700 *et seq.* for failing to provide adequate workers'
16 compensation coverage to Plaintiffs and other aggrieved employees.

17 38. Plaintiffs are "aggrieved employees" because they were employed by the alleged
18 violator and had one or more of the alleged violations committed against them and, therefore, are
19 properly suited to represent the interests of all other aggrieved employees.

20 39. Plaintiffs have exhausted the procedural requirements under Labor Code § 2699.3
21 as to Defendants and are therefore able to pursue a claim for penalties on behalf of themselves and
22 the State of California regarding the claims of other aggrieved employees under the PAGA.

23 40. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to
24 recover civil penalties for violations of the Labor Code sections cited above.

25 41. For bringing this action, Plaintiffs are entitled to attorneys' fees and costs incurred
26 herein.

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1. For civil penalties against Defendants;
2. For reasonable attorneys' fees and costs of suit to the extent permitted by law, including pursuant to California Labor Code §§ 2699(g) and California Code of Civil Procedure § 1021.5; and
3. For such other relief as the Court deems just and proper.

LEBE LAW, APLC

Jonathan M

Attorneys for Plaintiffs Jennifer Pardo and
Evangeline Matthews as Private Attorneys General
on behalf of the State of California