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ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

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10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF ALAMEDA**

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13 **ALAN YOUNG and RODNEY ROYSTER,**
14 individually and on behalf of all others similarly
situated,

15 Plaintiffs,

16 vs.

17 **ERNST & YOUNG U.S. LLP,** a Delaware
18 limited liability partnership,

19 Defendant.
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CASE NO. **21CV002086**

LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT REPRESENTATIVE ACTION

**COMPLAINT FOR CIVIL PENALTIES
PURSUANT TO LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 ET
SEQ.**

1 Plaintiffs Alan Young and Rodney Royster ("Plaintiffs"), on behalf of themselves and all others
2 similarly situated, complain and allege the following:

3 **INTRODUCTION**

4 1. This is a representative action under the Private Attorneys General Act of 2004, codified
5 at California Labor Code ("Labor Code") §§ 2698 *et seq.* ("PAGA") for civil penalties, and reasonable
6 attorneys' fees and costs, on behalf of Plaintiffs and all other current and former employees employed by
7 Ernst & Young U.S. LLP ("EY" or "Defendant") in California ("Aggrieved Employees") from April 6,
8 2020 to the present ("PAGA Period") for the following Labor Code violations: (1) failing to reimburse
9 reasonable business expenses in violation of Labor Code § 2802; (2) wrongfully requiring employees to
10 agree to illegal terms of employment in violation of Labor Code § 432.5; and (3) failing to issue accurate
11 wage statements in violation of Labor Code § 226(a)(8).

12 **PARTIES**

13 2. Plaintiff Alan Young is a resident of Riverside, California who was employed by
14 Defendant from November 2018 until May 2020. During his employment, Plaintiff was subject to
15 Defendant's unlawful conduct described herein.

16 3. Plaintiff Rodney Royster is a resident of Riverside, California who was employed by
17 Defendant from June 2018 until September 2020. During his employment, Plaintiff was subject to
18 Defendant's unlawful conduct described herein.

19 4. Defendant is a limited liability partnership organized under the laws of the State of
20 Delaware. Defendant is headquartered at 5 Times Square, New York, New York, and does business across
21 the United States, including in the State of California.

22 **JURISDICTION**

23 5. This Court has jurisdiction over Plaintiffs' PAGA claim pursuant to Labor Code § 2699.

24 6. This Court has jurisdiction over the Plaintiffs' claims for reasonable attorneys' fees and
25 costs under Labor Code § 2699(g)(1).

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7. On September 3, 2021, Plaintiffs provided Notice pursuant to Labor Code § 2699.3 to the LWDA. The LWDA has not provided notice to Plaintiffs regarding its intentions to investigate or not investigate Plaintiffs' claims.

8. The amount in controversy for Plaintiffs, including claims for civil penalties and pro rata share of attorney's fees, is less than seventy-five thousand dollars (\$75,000).

VENUE

9. Venue is proper in the County of Alameda pursuant to Cal. Civ. Proc. Code §§ 395(a) and 395.5. Defendant is a Delaware Limited Liability Partnership with its principal place of business in New York, New York. Defendant has not designated a principal place of business in California pursuant to Cal. Corp. Code § 2105(a)(3). Venue is therefore proper in Alameda County. Defendant employs Aggrieved Employees throughout the State of California, including at its Pleasanton office in Alameda County. The unlawful acts alleged herein had a direct effect on Aggrieved Employees within the State of California, including within Alameda County.

FACTUAL ALLEGATIONS

10. Defendant is a limited liability partnership that conducts business throughout California. Defendant is primarily involved in the business of selling public accounting services.

A. Defendant Failed to Reimbursement Business Expenses

11. During the PAGA Period, Defendant required and/or expected Plaintiffs and other Aggrieved Employees to work remotely. In working remotely from home to carry out their job duties for Defendant, Plaintiffs and other Aggrieved Employees incurred necessary expenditures or losses, including but not limited to, internet, phone service and/or equipment, and printing equipment and supplies.

12. Defendant knew or should have known that Plaintiffs and Aggrieved Employees incurred these expenses, yet failed to reimbursement Plaintiffs and Aggrieved Employees for these expenditures or losses fully or at all.

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1 **B. Defendant Required Aggrieved Employees to Agree to Unlawful Terms of Employment**

2 13. During the PAGA Period, Defendant employed and continues to employ Aggrieved
3 Employees pursuant to a uniform employment Contract, and issued a uniform Offer Letter at the
4 beginning of Aggrieved Employees' employment.

5 14. The uniform employment Contract contains a non-solicitation clause providing that "You
6 will not, during your employment and for a period of one year after the termination of your employment
7 (or, if later, the date of your separation from any of EY's affiliates) (the "Separation Date"), solicit or
8 assist others in soliciting any partners, principals, employees or any other personnel of EY or affiliate
9 thereof to leave EY or such affiliate, except as EY and you may agree, in writing, is appropriate."

10 15. The uniform Offer Letter contains a Choice of Law clause providing that "This agreement
11 shall be governed and construed in accordance with the laws of the state of Delaware" and "This
12 agreement and its interpretation shall be governed by the laws of the State of Delaware."

13 16. These terms of employment are unlawful under California law.

14 **C. Defendant Failed to Issue Accurate Wage Statements**

15 17. On the wage statements Defendant issued to Plaintiffs and Aggrieved Employees
16 Defendant listed the address of the employer as 1201 Elm Street, Suite 1400 Dallas, TX 75270.

17 18. On the W2 it issued to Aggrieved Employees, Defendant listed its address as 200 Plaza
18 Dr., Secaucus, New Jersey, 07094.

19 19. Prior to Covid-19, Plaintiffs and Aggrieved Employees were assigned to work out of
20 Defendant's California locations including Defendant's Irvine location at 18101 Von Karman Avenue,
21 Suite 1700, Irvine, CA 92612.

22 20. Defendant's corporate headquarters located at 5 Times Square New York, NY 10036.

23 **CAUSE OF ACTION FOR PAGA CIVIL PENALTIES**

24 21. Plaintiffs re-alleges and incorporate by reference each and every allegation set forth in the
25 preceding paragraphs.

26 22. Plaintiffs seek PAGA penalties on behalf of themselves and Aggrieved Employees for the
27 following:
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1 **Violation of Labor Code § 2802**

2 23. Under Labor Code § 2802 “[a]n employer shall indemnify his or her employee for all
3 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
4 or her duties.”

5 24. During the PAGA Period, Defendant required and/or expected Aggrieved Employees to
6 work remotely from home. As a result, Aggrieved Employees incurred expenses associated with working
7 remotely from home, including the cost of internet and home or mobile telephone expenses, and other
8 expenses associated with working from home.

9 25. However, Defendant did not reimburse Aggrieved Employees for these expenses, in
10 violation of Labor Code § 2802.

11 26. Pursuant to Labor Code § 2699(f)(2), Plaintiffs and Aggrieved Employees are entitled to
12 one hundred dollars (\$100) per pay period per Aggrieved Employee for each initial violation and two
13 hundred dollars (\$200) per pay period per Aggrieved Employee for each subsequent violation.

14 **Violation of Labor Code § 432.5**

15 27. Labor Code § 925(a)(2) prohibits an employer from requiring “an employee who primarily
16 resides and works in California, as a condition of employment, to agree to a provision that
17 would...[d]eprive the employee of the substantive protection of California law with respect to a
18 controversy arising in California.”

19 28. Business & Professions Code § 16600 provides that “every contract by which anyone is
20 restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void.” This
21 rule prohibits a former employer from including a Non-solicitation clause that restrains a former employee
22 from engaging in his or her lawful profession.

23 29. Labor Code § 432.5 which prohibits an employer from “requir[ing] any employee or
24 applicant for employment to agree, in writing, to any term or condition which is known by such employer,
25 or agent, manager, superintendent, or officer thereof to be prohibited by law.”

1 30. As a result of requiring Aggrieved Employees to agree to the Delaware Choice of Law
2 provision as a condition of their employment, Defendant violated Labor Code § 925(a)(2), and thereby
3 also violated Labor Code § 432.5.

4 31. As a result of requiring Aggrieved Employees to agree to the non-solicitation provision,
5 Defendant violated Business & Professions Code § 16600, and thereby also violated Labor Code § 432.5.

6 32. Pursuant to Labor Code § 2699(f)(2), Plaintiffs and Aggrieved Employees are entitled to
7 one hundred dollars (\$100) for each Aggrieved Employees per pay period for each initial violation and
8 two hundred dollars (\$200) for each Aggrieved Employees per pay period per pay period for each
9 subsequent violation.

10 **Violation of Labor Code § 226(a)(8)**

11 33. During the PAGA Period, Defendant failed to provide Plaintiff and Aggrieved Employees
12 with accurate wage statements in violation of Labor Code § 226(a)(8) by failing to list on the wage
13 statements the address of the entity that is the employer.

14 34. Defendant listed different addresses on the wage statements and the W2 tax forms issued
15 to Aggrieved Employees, employed Aggrieved Employees at a third address, and its headquarters were
16 at a different, fourth address.

17 35. Under California Labor Code § 226.3, Plaintiffs and Aggrieved Employees are entitled to
18 a PAGA penalty equal to two hundred fifty dollars (\$250) per pay period for the initial violation and one
19 thousand dollars (\$1,000) per pay period for each subsequent violation.

20 36. Alternatively, pursuant to Labor Code § 2699(f)(2), Plaintiffs and Aggrieved Employees
21 are entitled to one hundred dollars (\$100) for each Aggrieved Employees per pay period for each initial
22 violation and two hundred dollars (\$200) for each Aggrieved Employees per pay period per pay period
23 for each subsequent violation.

24 **Attorneys' Fees and Costs**

25 37. Plaintiffs are entitled to recover reasonable attorneys' fees and costs under Labor Code §
26 2699(g)(1).

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A. Civil penalties pursuant to PAGA for Defendant's failure to reimbursement Plaintiffs and Aggrieved Employees for business expenses; wrongfully requiring employees to agree to terms and conditions that are prohibited by law; and failure to provide Plaintiffs and Aggrieved Employees with accurate wage statements;

B. Reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g); and

C. All other relief as this Court deems proper.

Respectfully submitted,

By: Julian Hammond
HAMMONDLAW, P.C.
Attorneys for Plaintiffs