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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

01/10/2022 at 05:30:41 PM

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Attorneys for Plaintiff and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

JAVIER MARIN, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

SEA WORLD LLC, a Delaware Limited Liability
Company, doing business as Seaworld San Diego
or Aquatica San Diego; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2022-00001083-CU-OE-CTL

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

DEMAND OVER \$25,000

1 Plaintiff JAVIER MARIN (“Plaintiff”) hereby submits this Representative Action Complaint
2 against Defendant SEA WORLD LLC, a Delaware Limited Liability Company, doing business as
3 Seaworld San Diego or Aquatica San Diego; (“Defendant” or the “Company”), and Does 1-50
4 (hereinafter collectively referred to as “Defendants”), on behalf of himself and all aggrieved
5 employees of Defendant, for penalties for violations of the California Labor Code as follows:

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California Labor
8 Code §§201-203, 226, 226.7, 512, and 2698, *et seq.*, and the applicable Wage Orders of the Industrial
9 and Welfare Commission (the “IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against Defendant’s employees.

12 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly and
13 severally have acted intentionally and with deliberate indifference and conscious disregard to the
14 rights of all employees by failing to provide accurate itemized wage statements and pay meal and rest
15 break premium wages at the regular rate of pay.

16 **JURISDICTION AND VENUE**

17 4. The Court has jurisdiction over the violations of the California Labor Code §§201-203,
18 226, 226.7, 512, and 2698, *et seq.*

19 5. Venue is proper in San Diego County because Plaintiff worked for Defendant in the
20 City of San Diego, California.

21 **PARTIES**

22 6. On or about February 2021, Plaintiff was hired by Defendant and worked as a Banquet
23 Bartender and is currently working for Defendant.

24 7. Plaintiff is informed and believes, and based thereon alleges, that Defendant SEA
25 WORLD LLC, a Delaware Limited Liability Company, doing business as Seaworld San Diego or
26 Aquatica San Diego was and is a limited liability company that is authorized to do business in the
27 State of California.

28 8. Plaintiff is informed and believes and based thereon alleges that at all times herein

1 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
2 partnerships, licensed to do business and actually doing business in the State of California.

3 9. As such, and based upon all the facts and circumstances incident to Defendants'
4 business in California, Defendants are subject to Labor Code §§201-203, 226, 226.7, 512, and 2698, *et*
5 *seq.*, and the applicable Industrial Welfare Commission Wage Orders.

6 10. Plaintiff does not know the true names or capacities, whether individual, partner or
7 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
8 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
9 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
10 alleges that each of said fictitious Defendants was responsible in some way for the matters alleged
11 herein and proximately caused Plaintiff and members of the general public and aggrieved employees
12 to be subject to the illegal employment practices, wrongs and injuries complained of herein.

13 11. At all times herein mentioned, each of said Defendants participated in the doing of the
14 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
15 and each of them, were the agents, servants and employees of each of the other Defendants, as well as
16 the agents of all Defendants, and at all times herein mentioned, were acting within the course and
17 scope of said agency and employment.

18 12. Plaintiff is informed and believes and based thereon alleges that at all times material
19 hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer
20 of, or working in concert with each of the other co-Defendants and was acting within the course and
21 scope of such agency, employment, joint venture, or concerted activity. To the extent said acts,
22 conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants
23 confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

24 13. At all times herein mentioned, Defendants, and each of them, were members of, and
25 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
26 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

27 14. At all times herein mentioned, the acts and omissions of various Defendants, and each
28 of them, concurred and contributed to the various acts and omissions of each and all of the other

1 Defendants in proximately causing the injuries and damages as herein alleged. At all times herein
2 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
3 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts
4 and omissions of each and all of the other Defendants in proximately causing the damages as herein
5 alleged.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

8 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

9 15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
10 fully set forth herein.

11 16. Plaintiff brings this cause of action as a proxy for the State of California and in this
12 capacity, seeks penalties on behalf of all Aggrieved Employees from November 8, 2020, through the
13 present, for Defendants' violations of Labor Code §§ 201-203, 226, 226.7, 512, and 2698, as identified
14 above, for failing to provide accurate itemized wage statements and pay meal and rest break premium
15 wages at the regular rate of pay.

16 17. On or about November 8, 2021, Plaintiff sent written notice to the California Labor &
17 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code §§ 201-203,
18 226, 226.7, and 512, pursuant to Labor Code § 2698, et seq., the Private Attorneys General Act
19 ("PAGA"). Plaintiff also sent written notice of said Labor Code violations to Defendant via certified
20 mail pursuant to Labor Code § 2699.3. As of the date of the filing of this Complaint, the LWDA has
21 not provided written notice regarding whether it intends to investigate the Labor Code violations set
22 forth in Plaintiff's written notice.

23 18. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
24 applicable civil penalties for Defendants' violation of Labor Code §§ 201-203, 226, 226.7, 512, and
25 2698 for the time period described above, on behalf of himself and other Aggrieved Employees.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this
28 suit is brought against Defendants, jointly and severally, as follows:

1 1. Upon the First Cause of Action, for civil penalties pursuant to statute as set forth in
2 California Labor Code sections 226.3 and 2699, and for costs and attorney's fees;

3 2. On all causes of action for attorneys' fees and costs as provided by California Code of
4 Civil Procedure section 1021.5; and

5 3. For such other and further relief as the Court may deem just and proper.
6

7 DATED: January 10, 2022

DIVERSITY LAW GROUP, P.C.

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9 By: _____

Larry W. Lee
Attorneys for Plaintiff and the Aggrieved employees
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