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Attorneys for Plaintiff, JUANA MADRIGAL individually
and on behalf of all others similarly situated

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO**

JUANA MADRIGAL, individually and on behalf
of other individuals similarly situated,

Plaintiff,

v.

AEROTEK, INC., a Maryland corporation;
ASTON CARTER, INC, a Maryland
Corporation; HEALTH NET OF CALIFORNIA,
INC., a California corporation; and DOES 1
through 10,

Defendants.

CASE NO.: 34-2022-00315259

[Assigned to Hon. Judge Jill H. Talley, Dept.
27]

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR:**

**(1) Civil Penalties Pursuant to PAGA
Labor Code §§ 2698, et seq.**

1 Plaintiff JUANA MADRIGAL, (hereinafter referred to as “Plaintiff”), hereby brings this civil
2 law enforcement action under the California Private Attorneys General Act (“PAGA”) against
3 Defendants AEROTEK, INC., a Maryland corporation; ASTON CARTER, INC., a Maryland
4 Corporation; HEALTH NET OF CALIFORNIA, INC., a California corporation, and DOES 1 through
5 10 (hereinafter referred to as “Defendants”) on behalf of herself and other aggrieved employees of
6 Defendants and alleges as follows:

7 **NATURE OF THE CASE**

8 1. This is a law enforcement and representative action under the Private Attorneys
9 General Act of the California Labor Code, arising from Defendants’ failure to pay all non-exempt
10 employees (“Aggrieved Employees”) wages they are owed, failure to provide non-exempt employees
11 with meal periods in compliance with the applicable Wage Order, failure to properly pay meal period
12 premiums, failure to reimburse business expenses, failure to provide compliant wage statements, and
13 failure to pay all wages in a timely manner at time of termination.

14 2. Aerotek Inc. is a recruitment firm that connects organizations with various
15 professionals.¹ Aerotek has locations across the United States, Canada, Europe and Asia Pacific, with
16 more than twenty (20) locations throughout California.

17 3. Aston Carter, Inc. is a staffing solution firm that provides services and deployment of
18 temporary and permanent staff to business providers. Aston Carter has approximately fifteen (15)
19 locations throughout California.

20 4. Health Net of California Inc. provides health plans for individuals, families, Medi-Cal
21 members, Medicare and businesses.²

22 5. Plaintiff was employed by Aerotek, Inc., and subsequently Aston Carter, Inc. and was
23 assigned to work remotely for Health Net of California. This resulted in multiple expenditures that
24 Plaintiff was responsible for that were not reimbursed by Defendants. When Plaintiff’s job was
25 assigned, she was provided with a computer and headset, however, expenses such as internet, cell
26 phone use, paper and pens, and electricity were the responsibility of Plaintiff.

27 ¹ <https://www.aerotek.com/> (last accessed Nov. 23, 2021).

28 ² https://www.healthnet.com/content/healthnet/en_us.html (last accessed Nov. 23, 2021).

1 6. Further, Defendants subjected Plaintiff and other aggrieved employees to work off the
2 clock as it took two to three (2-3) minutes each day to turn on the computer and log into the software.
3 Additionally, when Plaintiff was terminated, she was required to drive to Health Net to return the
4 computer, which was done without compensation.

5 7. Defendants also failed to provide Plaintiff and aggrieved employees with compliant
6 meal breaks, as meal breaks were often short and late.

7 8. As a result of Defendants' policies and practices, Plaintiff alleges that Defendants have
8 failed to pay her and aggrieved employees for all hours worked, has failed to reimburse expenses, and
9 has violated the wage statement requirements, recordkeeping and other requirements of the Labor
10 Code and the IWC Wage Order.

11 9. Plaintiff seeks relief on behalf of herself and all others similarly situated as a result of
12 Defendants' employment policies, practices and procedures more specifically described below, which
13 violate California Labor Code and the orders and standards promulgated by the California Department
14 of Industrial Relations, Industrial Welfare Commission, and Division of Labor Standards.

15 10. Plaintiff, on behalf of herself and all other aggrieved employees, seeks civil penalties
16 under PAGA based on Defendants' failure to pay all wages; failure to provide compliant meal breaks;
17 failure to provide accurate, itemized wage statements; failure to reimburse expenses; and failure to
18 timely pay final wages upon termination.

19 11. Labor Code §§ 2698 *et seq.* grants California employees the right to bring a civil action
20 for violation of any provision of the Labor Code on behalf of themselves and other current and former
21 employees to recover civil penalties. In passing PAGA, the California Legislature "declared that
22 adequate financing of labor law enforcement was necessary to achieve maximum compliance with
23 state labor law, that staffing levels for labor law enforcement agencies had declined and were unlikely
24 to keep pace with future growth of the labor market, and that it was therefore in the public interest to
25 allow aggrieved employees, acting as private attorneys general, to recover civil penalties for Labor
26 Code violations." *Arias v. Super Ct.* (2009) 46 Cal. 4th 969, 980.

27 12. PAGA permits aggrieved employees to collect the civil penalties authorized by law
28 and normally collectible by the Labor and Workforce Development Agency ("LWDA") or any of its

1 departments or division. *See* Lab. Code § 2699(a). However, because the action is brought on behalf
2 of the state, 75% of the fees collected are distributed to the LWDA for the enforcement of labor laws
3 and for the education of employers and employees. The remaining 25% is shared between aggrieved
4 employees. *See* Lab. Code § 2699(i).

5 13. PAGA provides that any civil penalty assessed and collected by the LWDA for
6 violation of applicable provisions of the California Labor Code may, as an alternative, be recovered
7 through a civil action brought by an aggrieved employee on behalf of her or himself and other current
8 or former employees pursuant to procedure outlined in California Labor Code § 2699.3.

9 14. Pursuant to Labor Code § 2699.3(a)(1)(A), before commencing a civil action, an
10 aggrieved employee must first give notice by online filing with the LWDA and by certified mail to
11 the employer of the alleged violations, including facts and theories to support the allegations. If the
12 LWDA fails to investigate the alleged violations within 65 calendar days of the date of the notice, the
13 aggrieved employee may then file a civil action to seek penalties.

14 15. On November 30, 2021, Plaintiff provided written notice of the violations alleged in
15 this Complaint, including the facts and theories supporting their allegations, to the LWDA via online
16 submission, with a certified copy mailed to Defendants. Accordingly, Plaintiff has satisfied the
17 administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties
18 against Defendant for violations of California Labor Code identified in this Complaint.

19 16. On [DATE], Plaintiff provided amended written notice to LWDA and Defendants of
20 the allegations set forth in this Complaint.

21 17. Plaintiff on behalf of herself and all others similarly situated, also request reasonable
22 attorneys' fees and costs pursuant to, *inter alia*, California Labor Code § 2699 (g); and Code of Civil
23 Procedure § 1021.5.

24 **JURISDICTION AND VENUE**

25 18. The Court has jurisdiction over this representative action pursuant to Article 6, § 10 of
26 the California Constitution and California Code of Civil Procedure § 410.10.

27 19. The Court has jurisdiction over Defendants because they are corporations authorized
28 to do business in the State of California and are registered with the California Secretary of State.

1 Defendants do sufficient business with sufficient minimum contacts in California, and/or otherwise
2 intentionally avails itself of the California market through the advertising, marketing and sale of goods
3 and services, to render the exercise of jurisdiction over Defendants by the California court consistent
4 with traditional notions of fair play and substantial justice.

5 20. Venue is proper in Sacramento County because the acts which give rise to this litigation
6 occurred in this county and because Defendants have employed aggrieved employees in this county
7 and transacts business in this county.

8 **THE PARTIES**

9 21. Plaintiff Juana Madrigal ("Plaintiff") is a resident of Sacramento County, in the State
10 of California. Plaintiff has been employed by Defendants in Sacramento, California, from
11 approximately May 24, 2021 through September 13, 2021. Plaintiff was employed by Aerotek Inc.
12 and worked remotely for Health Net of California's call center.

13 22. Aerotek Inc. is a Maryland corporation that does and at all times was engaged in
14 business in California including in the County of Sacramento.

15 23. Aston Carter, Inc. is a Maryland corporation that does and all times was engaged in
16 business in California including in the County of Sacramento.

17 24. Health Net of California Inc. is a California corporation that does and at all relevant
18 times was engaged in business in California including in the County of Sacramento.

19 25. Plaintiff does not know the true names and capacities of Defendants sued herein as
20 DOES 1-10, and therefore sue these Defendants by fictitious names. Plaintiff will amend this
21 Complaint to state the true names and capacities when ascertained. Plaintiff is informed and believe
22 and thereon allege that each of the fictitiously named Defendants is responsible in some manner for
23 the occurrences and damages alleged herein, and that Plaintiff's damages as hereinafter set forth were
24 proximately caused by said Defendants.

25 26. Throughout this Complaint, any reference to "Defendants" is intended to refer to all
26 Defendants, including DOES 1-10, jointly.

27 **FACTUAL ALLEGATIONS**

28 27. During the relevant time period of this action, Defendants have employed Plaintiff and

1 others similarly situated individuals in California in remote positions. These positions are not exempt
2 from the wage and hour provisions of the California Labor Code.

3 28. As a matter of policy and/or practice, Defendants have failed to compensate Plaintiff
4 and other similarly situated hourly, aggrieved employees for all hours worked. Specifically, prior to
5 clocking in, Plaintiff and aggrieved employees were required to wait two to three (2-3) minutes for
6 the computer to turn on, and for Plaintiff and aggrieved employees to log into the software.
7 Additionally, Plaintiff was not paid for the time it took to drive to return the computer back to Health
8 Net of California after being terminated.

9 29. Defendants have also failed to reimburse Plaintiff and aggrieved employees from all
10 expenses. Specifically, Plaintiff alleges that Aerotek Inc., requires its non-exempt employees who work
11 remotely to pay for internet, cell phone use, paper/pens and for electricity as a result of the prolonged
12 computer use. Further, Plaintiff was not reimbursed for mileage when she was required to drive to Health
13 Net of California and return the computer.

14 30. As a matter of policy and/or practice, Defendants have failed to provide Plaintiff and
15 aggrieved employees with compliant meal breaks. Plaintiff alleges that calls with customers would
16 often times last more than an hour, resulting in meal breaks after the fifth hour worked. Further,
17 Defendants have a policy of not recording meal breaks, and require aggrieved employees to log back
18 onto the computer a minute or so prior to the thirty-minute mark as the computer goes to sleep.

19 31. Defendants have also failed to provide Plaintiff and aggrieved employees with any wage
20 statements and only provided Plaintiff with direct deposit payments without a pay statement.

21 32. Defendants also failed to pay Plaintiff her final wages in a timely manner as a result
22 of the violations above.

23 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants are and
24 were advised by skilled lawyers, other professionals, employees with human resources background
25 and advisors with knowledge of the requirements of California wage and hour laws.

26 34. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times,
27 Defendants had a consistent policy or practice of failing to compensate aggrieved employees for all
28 hours worked and under Defendants' control.

35. Accordingly, Plaintiff and aggrieved employees have been denied the wages and other benefits to which they are entitled under California law.

36. As a direct result of the wage and hour violations herein alleged, Plaintiff and aggrieved employees have suffered, and continue to suffer substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform its obligations under state law, all to Plaintiff's respective damage in amounts according to proof at the time of trial.

37. Plaintiff is currently complying with the procedures for bringing suit specified in California *Labor Code* § 2699.3.

38. By letter dated November 30, 2021, required notice was provided to Labor and Workforce Development Agency (“LWDA”) and Defendants, of the specific provisions of the California *Labor Code* alleged to have been violated, including the facts and theories to support the alleged violations.

39. More than sixty (60) days have passed since the date the notice was mailed to Defendants and the LWDA. Accordingly, Plaintiff has satisfied the administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties against Defendants for violations of California Labor Code identified in this Complaint.

FIRST CAUSE OF ACTION

Civil Penalties Pursuant to PAGA (Labor Code §§ 2698, et seq.)

(On Behalf of Plaintiff and Aggrieved Employees)

40. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth herein, the allegations contained above.

41. Plaintiff asserts claims for civil penalties as representatives of the State of California, as authorized by the Private Attorneys General Act (“PAGA”), Labor Code section 2698, *et seq.*, and to the extent permitted by law, on behalf of herself and other aggrieved employees who work or worked for Defendants in California at any time beginning November 30, 2020, through the resolution of this action and who are classified by Defendants as non-exempt from the wage and hour provisions of the California Labor Code.

1 42. Plaintiff is an “aggrieved employee” within the meaning of Labor Code section 2699(c)
2 and is a proper representative to bring a civil action on behalf of herself and other current and former
3 employees of Defendant pursuant to the procedures specified in Labor Code section 2699.3(a) because
4 Plaintiff was employed by Defendants and one or more Labor Code violations alleged herein was
5 against her.

6 43. Pursuant to Labor Code §§ 200, 226, 1197 and 1198, Defendants are and were required
7 to compensate Plaintiff and aggrieved employees for all hours worked. Defendants subjected Plaintiff
8 and other aggrieved employees to work off the clock as it took two to three (2-3) minutes each day to
9 turn on the computer and log into the software. Additionally, when Plaintiff was terminated, she was
10 required to drive to Health Net to return the computer, which was done without compensation.
11 Defendants have failed to comply with the Labor Code.

12 44. Pursuant to Labor Code §§ 200, 226.7, 512 and the applicable Wage Order, Defendants
13 are required to provide Plaintiff and aggrieved employees with a meal period of not less than 30
14 minutes after working five hours, and if an employer fails to provide a meal period, the employer shall
15 pay the employee one (1) hour of pay at the employee’s regular rate of pay. Defendants have failed to
16 provide mandated meal periods and have not provided pay in lieu of such meal breaks.

17 45. Labor Code § 226(a) sets forth reporting requirements for employers when they pay
18 wages, as follows: “[e]very employer shall ... at the time of each payment of wages, furnish his or her
19 employees ... an accurate itemized statement in writing showing (1) gross wages earned; (2) total hours
20 worked by the employee.... (5) net wages earned ... (8) the name and address of the legal entity that
21 is the employer... (9) all applicable hourly rates in effect during the pay period and the corresponding
22 number of hours worked at each hourly rate by the employee.”

23 46. Defendants failed to comply with Labor Code Labor Code § 226(a) as Plaintiff and
24 aggrieved employees never received wage statements.

25 47. Labor Code § 2802 requires that employers reimburse employees for business related
26 expenses. Defendants failed to comply with section 2802 as it failed to reimburse Plaintiff and
27 aggrieved employees for expenses including but not limited to internet, cell phone use, paper and pens,
28 and electricity.

1 48. Labor Code §§ 201-203 require that employers promptly pay employees all wages
2 upon discharge. However, Defendants have failed to do so, as Plaintiff and aggrieved employees did
3 not receive all wages upon separation of employ. This includes compensation or time worked off the
4 clock and for meal break premiums.

5 49. Pursuant to Labor Code § 2699.3(a)(1)(A), before commencing a civil action, an
6 aggrieved employee must first give notice by online filing with the LWDA and by certified mail to the
7 employer of the alleged violations, including facts and theories to support the allegations. If the LWDA
8 fails to investigate the alleged violations within 65 calendar days of the date of the notice, the
9 aggrieved employee may then file a civil action to seek penalties.

10 50. On November 30, 2021, Plaintiff provided written notice of the violations alleged in
11 this Complaint, including the facts and theories supporting her allegations, to the LWDA via online
12 submission, with a certified copy mailed to Defendants. Accordingly, Plaintiff has satisfied the
13 administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties
14 against Defendant for violations of California Labor Code identified in this Complaint.

15 51. On [DATE] Plaintiff provided amended written notice of the violations alleged in this
16 Complaint, including the facts and theories supporting her allegations, to the LWDA via online
17 submission, with a certified copy mailed to Defendants. Accordingly, Plaintiff has satisfied the
18 administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties
19 against Defendant for violations of California Labor Code identified in this Complaint.

20
21 52. Plaintiff and other aggrieved employees hereby seek civil penalties for the Labor Code
22 violations during the applicable limitations period described herein, in the following amounts:

- 23 a. For violations of California Labor Code Sections 200-202, 512, 1197, 1194, 1198,
24 2802, \$100 for each aggrieved employee per pay period for the initial violation and
25 \$200 for each aggrieved employee per pay period for each subsequent violation.
26 Cal. Labor Code § 2699(f);
27 b. For violation of California Labor Code Section 226, \$250 per employee for an
28 initial violation and one thousand per employee for each subsequent violation. Cal.

Labor Code § 226.3;

53. Pursuant to California Labor Code Section 2699(g), Plaintiff, on behalf of herself and other aggrieved employees, are entitled to an award of reasonable attorneys' fees and costs

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself, and Aggrieved Employees she seeks to represent in this action, request the following relief:

- a. That the Court find that Defendants have been in violation of Labor Code §§ 200, 226, 226.7, 512, 1197, 1194, 1198, 2802;
- b. Prejudgment interest under Cal. Civ. C. § 3287, and other applicable law;
- c. That the Court award to Plaintiff and the Aggrieved Employees civil penalties as provided herein, including but not limited to Labor Code §§ 2699(a) and 2699(f);
- d. That Plaintiff and other Aggrieved Employees be awarded reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g)(1), Code of Civil Procedure § 1021.5, and/or other applicable law;
- e. Any and all applicable civil penalties, as provided by law; and
- f. For such other and further relief as this Court deems just and proper.

DATED: May 20, 2024

BRADLEY/GROMBACHER, LLP
MAJARIAN LAW GROUP APC

By: _____



Marcus J. Bradley, Esq.
Kiley Lynn Grombacher, Esq.
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Sahag Majarian, II, Esq.
Attorneys for Plaintiff and Aggrieved Employees

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action; my business address 31365 Oak Crest Drive, Suite 240, Westlake Village, CA 91361.

On May 20, 2024, I served the foregoing documents described as
1. FIRST AMENDED COMPLAINT

on all other interested parties in this action as follows: **SEE ATTACHED SERVICE LIST**

- ☒ **(BY US MAIL)** I caused such envelope(s) to be deposited in the mail at Westlake Village, California with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **(BY FEDERAL EXPRESS)** I caused to have served such document(s) by depositing them in the drop box at Westlake Village, California, for priority overnight next day delivery.
- ☐ **(BY FACSIMILE)** I caused such document to be faxed to the persons identified with fax numbers on the attached Mailing List.
- ☐ **(BY PERSONAL SERVICE)** on the above date, I ordered delivery of the aforementioned document by personal service to the party on the attached Service List. A Proof of Service will be filed with the court once service has been effectuated.
- ☒ **(BY E-MAIL)** On the above date, I served the above-mentioned document(s) by electronic mail to the parties' email addresses as they are known to me on the attached Service List. My email address is mvalle@bradleygrombacher.com. I did not receive, within a reasonable period of time, any indication that the transmission did not go through.
- ☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed May 20, 2024, at Westlake Village, California.



Maria Valle

SERVICE LIST

Juana Madrigal v. Aerotek, Inc. et al.
Sacramento County Superior Court, Case No. 34-2021-00311963-CU-OE-GDS

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