

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Laura Seigle

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Katelynne DuBeau on Behalf of All
Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

KATELYNNE DUBEAU, on behalf of all
aggrieved employees,

Plaintiff,

vs.

SHOOTT INC., a Delaware Corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 22STCV08626

**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT, LABOR CODE
SECTION 2698, et seq. ("PAGA")**

[UNLIMITED CIVIL]

[JURY TRIAL DEMANDED]

1 Plaintiff KATELYNNE DUBEAU (hereinafter "Plaintiff"), in a representative capacity
2 on behalf of all aggrieved employees, alleges and states as follows:

3 **JURISDICTION AND VENUE**

4 1. This action is brought pursuant to the California Private Attorneys General Act, -
5 Cal. Labor Code sections 2698, et seq. The penalties and other remedies sought by Plaintiff
6 exceeds the minimal jurisdiction limits of the Superior Court and will be established according to
7 proof at trial. The amount in controversy for Plaintiff, including claims for compensatory
8 damages and attorneys' fees is less than \$75,000.00. It is believed that the total sum owed to the
9 Aggrieved Employees ("Aggrieved Employees" is defined for all purposes herein as all non-
10 exempt employees of Defendant SHOOTT INC., ("Defendant") alleged herein is less than
11 \$5,000,000.00, based upon the anticipated size of the Aggrieved Employees and the amount in
12 controversy for each member of the Aggrieved Employees.

13 2. This Court has jurisdiction over this action and the matters alleged herein pursuant
14 to the grant of original jurisdiction set forth in Article VI, Section 10 of the California
15 Constitution. The statutes under which this action is brought do not specify any other basis for
16 jurisdiction.

17 3. This Court has jurisdiction over Defendant, because, upon information and belief,
18 Defendant is either a citizen of California, has sufficient minimum contacts in California, or
19 otherwise intentionally avails itself of the California market so as to render the exercise of
20 jurisdiction over it by this Court consistent with traditional notions of fair play and substantial
21 justice.

22 4. Venue is proper in this Court, because, upon information and belief, the named
23 Defendant resides, transacts business, or has offices in this county, and the acts or omissions
24 alleged herein took place in this county.

25 5. Plaintiff hereby demands a trial by jury.

26 **THE PARTIES**

27 6. At all times relevant herein, Plaintiff was, and is, an individual residing in the
28 County of Los Angeles, State of California.

1 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
2 relevant herein, Defendant SHOOTT INC. was, and is, a Delaware Corporation doing business
3 throughout California including providing photography sessions within Los Angeles County, and
4 arranging these sessions through its online portal.

5 8. Plaintiff is unaware of the true names and capacities of Defendants named herein
6 as DOES 1 through 100, inclusive, and therefore sues these Defendants by such fictitious names.
7 Plaintiff will amend this Complaint to allege such names and capacities when the same has been
8 ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the
9 fictitiously named Defendants stated herein bears a legal responsibility to Plaintiff similar to that
10 of the named Defendant herein.

11 9. At all times mentioned herein, Defendants DOES 1 through 100, inclusive, were
12 the agents, servants, and employees of their Co-Defendants, and in doing the things herein alleged
13 were acting in the scope of their authority as such agents, servants, and employees, and with the
14 permission and consent of their Co-Defendants.

15 **FACTS COMMON TO ALL CAUSES OF ACTION**

16 10. Defendant is engaged in the photography industry, including providing
17 photography session. Throughout the relevant time-period, Defendant employed Plaintiff and
18 other aggrieved workers throughout California including the county of Los Angeles.

19 11. Plaintiff was hired by Defendant in or about April 2021 as a non-exempt
20 photographer. Plaintiff's duties include but not limited to preparing photoshoot settings, taking
21 photographs and editing photographs.

22 12. Throughout the relevant time period, Defendant employed Plaintiff and other
23 aggrieved workers who were not free from the control and direction of Defendant in the
24 performance of their work and were not performing work outside Defendant's usual course of
25 business. This included that Plaintiff and other aggrieved employees were not able to negotiate
26 the amount of money per photography session arranged by Defendant either from the customer or
27 from Defendant. Plaintiff and other aggrieved employees were told where and when to perform a
28 photography session. Then Plaintiff and other aggrieved employees were required to upload the

1 edited photos from the photography session on to Defendant's platform. If these photos were not
2 uploaded in the required time, Plaintiff and other aggrieved employees were be penalized a
3 portion of their pay for that photography session. Plaintiff would be penalized if she cancelled a
4 photography session. Additionally, when Defendant offered customers discounts for a
5 photography session, this amount would come out of Plaintiff's pay for that session regardless of
6 whether Plaintiff agreed to the discount or not.

7 13. Throughout the relevant period, Plaintiff and other aggrieved employees were
8 misclassified by Defendant as an independent contractors.

9 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
10 relevant to this action, Defendant implemented a series of willful, systematic, and deliberate
11 policies and practices that suppressed operating costs at the expense of employee rights set forth
12 under the California Labor Code and the Industrial Welfare Commission (hereinafter "IWC")
13 Wage Orders.

14 15. Plaintiff alleges that Defendant committed the following violations during the
15 relevant time period:

16 (a) Willful Misclassification of Employees: Plaintiff alleges that Defendant
17 misclassified Plaintiff and other aggrieved workers as independent contractors to evade the
18 obligations of an employers and the rights of employees, such as rest period, meal periods, and
19 overtime. At all times, Defendant exercised control and direction over Plaintiff and other
20 aggrieved employees in connection with performance of the work performed. For instance,
21 Defendant sets Plaintiff's schedule, and supervises her work, setting prices for Plaintiff's work
22 product and deadlines, and penalized Plaintiff's autonomy when she attempted to control her own
23 schedule.

24 (b) Failure to Pay all Wages: Plaintiff alleges that Defendant did not pay all
25 wages to her and other aggrieved workers within the same pay period in which they were earned.

26 (c) Failure to Pay Overtime: Plaintiff alleges that Defendant did not pay its
27 non-exempt employees, including Plaintiff and other aggrieved employees, one and one-half (1.5)
28 their normal rate of pay for hours work past eight (8) hours in one day and/or forty (40) hours in

1 one workweek. Defendant paid non-exempt employees their base pay for all hours worked past
2 eight 98) hours in one day and/or forty (40) hours in one week and/or eighty (80) hours in one pay
3 period.

4 (d) Failure to Provide Accurate Wage Statement: Plaintiff alleges that
5 Defendant does not provide accurate wage statements showing (1) gross wages earned; (2) total
6 hours worked by the employee; (3) the number of piece-rate unties earned and any applicable
7 piece rate if the employee is paid on a piece-rate basis; (4) all deductions; 95) net wages earned;
8 (6) the inclusive dates of the period for which the employee paid; (7) the name of the employee
9 and only the four digests of her social security number; (8) the name and address of the legal
10 entity that is the employer; and (9) all applicable hourly rage by the employee. Wage statements
11 issued by Defendant to Plaintiff and other aggrieved employees did not provide an accurate
12 showing gross wages earned, total hours worked by the employee, deductions, net wages earned,
13 the address of the legal entity that is the employer, and all applicable hourly rates in effect during
14 the pay period and the corresponding number of hours worked at each hourly rate by the
15 employee.

16 (e) Failure to Provide Rest Periods and/or Pay Rest Period Premiums: Plaintiff
17 alleges that Defendant does not provide Plaintiff and other aggrieved workers with lawful rest
18 periods and failed to compensate Plaintiff and other aggrieved workers with all lawful rest
19 periods and failed to compensate Plaintiff and other aggrieved workers one additional hour of pay
20 at the employees' regular rate of compensation for each workday that the rest period was not
21 provided.

22 (f) Failure to Provide Meal Periods and/or Pay Meal Period Premiums:
23 Plaintiff alleges that Defendant did not provide Plaintiff and other aggrieved workers with a meal
24 period of not less than 30 minutes for each work period of more than five hours per day and failed
25 to compensate Plaintiff and other aggrieved workers one additional hour of pay at the employees'
26 regular rate of compensation for each workday that the meal period was not provided. Further,
27 Defendant does not always provide a second lawful meal period when Plaintiff and other
28 aggrieved workers worked over ten (10) hours in a workday.

1 (g) Failure to Pay all Wages Due Upon End of Employment: Plaintiff alleges
2 that Defendant did not pay all wages due to employees when the employment relationship ended.
3 Because Defendant did not pay Plaintiff and other aggrieved workers applicable overtime wages
4 and failed to pay Plaintiff and aggrieved workers rest and meal period premiums, those wages
5 were due and owing to Plaintiff and other aggrieved workers at the time of termination or within
6 72 hours of resignation or termination. Plaintiff is informed and believes that aggrieved workers
7 were not compensated for all wages due as required by the Labor Code.

8 (h) Failure to Maintain Records: Plaintiff alleges that Defendant does not
9 maintain payroll records showing the hours worked daily by and the wages paid to Plaintiff and
10 aggrieved workers. Further Defendant did not maintain timecard records that accurately reflect
11 the actual hours worked by Plaintiff and other aggrieved workers.

12 16. Plaintiff is informed and believes, and based thereon alleges that, during the
13 relevant period, Defendant's conduct resulted in systematic and class-wide violations of
14 California Labor Code sections 201 through 204, 226, 226.3, 226.7, 226.8, 510, 512, 558,
15 1174(d), 1194(a), and 1198.

16 **FIRST CAUSE OF ACTION**

17 **(Violation of California Labor Code Section 2698, et seq. (PAGA) – Against all Defendants)**

18 17. Plaintiff refers to and incorporates herein by reference all prior paragraph as
19 though fully set forth herein.

20 18. California Labor Code section 2698, et seq., the Private Attorneys General Act
21 ("PAGA"), allows an aggrieved employee to bring suit against an employer for violations of most
22 California Labor Code provisions, including, but not limited to, violations of California Labor
23 Code sections 201-203, 204, 226, 510, 1194(a), and 1197. By virtue of Defendant's numerous
24 violations of the California Labor Code as against Plaintiff as described herein, Plaintiff is an
25 aggrieved employee as defined in California Labor Code section 2698, et seq.

26 19. Defendant's acts constitute an ongoing unlawful activity prohibited by the
27 California Labor Code, and, therefore, these acts constitute violations of the PAGA.
28

20. Plaintiff has provided notice of these violations pursuant to California Labor Code section 2699.3 and has specifically asked the CLWDA if it intends to investigate the alleged violations on December 9, 2021. Plaintiff did not receive a response back from the CLWDA within the time limits outlined in California Labor Code section 2699.3 with notification that it intends to investigate the alleged violations, and thus, Plaintiff is entitled to prosecute his PAGA claims under California Labor Code section 2699, et seq.

21. Defendant's conduct of violating the California Labor Code constitutes violations of the PAGA.

22. Therefore, Plaintiff requests penalties against Defendant under the provisions of PAGA section 2699(f).

23. The proper measure of damages and penalties under the PAGA is all aggrieved employees, whether a party to this action or not. Further, this claim needs no certification to proceed with class-wide recovery. *See Arias v. Superior Court*, 46 Cal. 4th 969, 970-975 (2009).

24. Further, as a direct and proximate result of the conduct of Defendant, as set forth above, Plaintiff was forced to incur substantial attorney's fees and costs which are recoverable under California Labor Code Section 2699(g)(1).

WHEREFORE, Plaintiff prays for judgment against Defendant SHOOTT, INC. and DOES 1 through 100, inclusive, and each of them, jointly and severally, as follows:

1. That the Court impose penalties against Defendant on behalf of Plaintiff and all aggrieved employees according to the Private Attorneys General Act ("PAGA");
2. For reasonable attorneys' fees and for costs of suit incurred herein; and
3. For such other and further relief as this Court may deem just, fair, and proper.

DATED: March 10, 2022

Respectfully Submitted,
BARKHORDARIAN LAW FIRM, PLC

/s/ Heather K. Cox

Gregory P. Wong
Heather K. Cox
Attorneys for Plaintiff Katelynne DuBeau
and on behalf of all aggrieved employees