

1 Kane Moon (SBN 249834)
 E-mail: kane.moon@moonyanglaw.com
 2 Brett Gunther (SBN 306448)
 E-mail: brett.gunther@moonyanglaw.com
 3 Sohyun "Julie" Oh (SBN 341157)
 E-mail: julie.oh@moonyanglaw.com
 4 **MOON & YANG, APC**
 1055 W. Seventh St., Suite 1880
 5 Los Angeles, California 90017
 Telephone: (213) 232-3128
 6 Facsimile: (213) 232-3125

7 Attorneys for Plaintiff Tania J. Perez

FILED
 Superior Court of California
 County of Los Angeles

04/27/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: P. Figueroa Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **FOR THE COUNTY OF LOS ANGELES**

11 TANIA J. PEREZ, individually, and on behalf of
 all others similarly situated,

12 Plaintiff,

14 vs.

15 BLUE BOTTLE COFFEE, LLC, a limited
 16 liability company; BLUE BOTTLE COFFEE,
 INC., a California corporation; and DOES 1
 17 through 10, inclusive,

18 Defendants

Case No.: 22STCV03240

***[FILED AS A MATTER OF RIGHT PER
 CAL. LABOR CODE § 2699.3, subd.
 (a)(2)(C)]***

**FIRST AMENDED REPRESENTATIVE
 ACTION COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
 Code § 2699, et seq.]

1 Plaintiff Tania J. Perez (“Plaintiff”), based upon facts that either have evidentiary support
2 or are likely to have evidentiary support after a reasonable opportunity for further investigation
3 and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Blue Bottle Coffee, Inc., Blue
6 Bottle Coffee, LLC, and Does 1 through 10 (collectively referred to as “Defendants”) for
7 California Labor Code violations and unfair business practices stemming from Defendants’
8 failure to pay minimum wages, failure to pay overtime wages, failure to provide meal periods,
9 failure to authorize and permit rest periods, failure to maintain accurate records of hours worked
10 and meal periods, failure to timely pay all wages to terminated employees, failure to indemnify
11 necessary business expenses, and failure to furnish accurate wage statements.

12 2. For over 50 years, California’s courts and legislature have recognized that this
13 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
14 Wages are not ordinary debts. Because of the economic position of the average worker and his
15 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so
16 that employees are promptly paid the minimum/overtime wages that the Legislature has required
17 for employees. So fundamental are California’s wage-and-hour laws that the Legislature has
18 criminalized certain types of violations. In extending extra protection to deter violations of these
19 underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution or
20 other damages other than civil penalties—California has enacted the PAGA to permit an
21 individual to bring an action on behalf of themselves and on behalf of others for PAGA penalties
22 only, which is the precise and sole nature of this action.

23 3. All California employees during the relevant statutes of limitations who are or
24 were harmed by Defendant’s illegal practices are “Aggrieved Employees.”

25 4. Defendants own/owned and operate/operated an industry, business, and
26 establishment within the State of California, including Los Angeles County. As such, and based
27 upon all the facts and circumstances incident to Defendants’ business in California, Defendants
28

are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”), and the California Business & Professions Code.

5. Despite these requirements, throughout the statutory period Defendants maintained a systematic, company-wide policy and practice of:

- (a) Failing to pay employees for all hours worked, including all minimum wages, and overtime wages in compliance with the California Labor Code and IWC Wage Orders;
- (b) Failing to provide employees with timely and duty-free meal periods in compliance with the California Labor Code and IWC Wage Orders, failing to maintain accurate records of all meal periods taken or missed, and failing to pay an additional hour’s pay for each workday a meal period violation occurred;
- (c) Failing to authorize and permit employees to take timely and duty-free rest periods in compliance with the California Labor Code and IWC Wage Orders, and failing to pay an additional hour’s pay for each workday a rest period violation occurred;
- (d) Failing to indemnify employees for necessary business expenses incurred;
- (e) Willfully failing to pay employees all minimum wages, overtime wages, meal period premium wages, and rest period premium wages due within the time period specified by California law when employment terminates; and
- (f) Failing to maintain accurate records of the hours that employees worked.
- (g) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders.

6. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants’ violations, as alleged above, during all relevant times herein were

willful and deliberate.

7. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiff and the Class. Further, Defendants are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of “respondeat superior”.

THE PARTIES

A. Plaintiff

8. Plaintiff is a California resident that worked for Defendants in the County of Los Angeles, State of California, as a barista from approximately March 2019 to September 2021.

B. Defendants

9. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Blue Bottle Coffee, Inc. is:

- (a) A California corporation with its principal places of business in Los Angeles, California.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in Los Angeles County; and
- (c) The former employer of Plaintiff, and the current and/or former employer of the putative Aggrieved Employees. Defendants suffered and permitted Plaintiff and the Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions.

10. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Blue Bottle Coffee, LLC is:

- (a) A limited liability company with its principal places of business in Los Angeles, California.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in Los Angeles County;
- (c) The former employer of Plaintiff, and the current and/or former employer

1 of the putative Aggrieved Employees. Defendants suffered and permitted
2 Plaintiff and the Aggrieved Employees to work, and/or controlled their
3 wages, hours, or working conditions; and

4 (d) At all times mentioned herein, Blue Bottle Coffee, LLC is and was the
5 successor in interest and alter ego of Blue Bottle Coffee, Inc.

6 11. Plaintiff does not currently know the true names or capacities of the persons or
7 entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious
8 names. Each of the Doe Defendants was in some manner legally responsible for the damages
9 suffered by Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this
10 complaint to set forth the true names and capacities of these Defendants when they have been
11 ascertained, together with appropriate charging allegations, as may be necessary.

12 12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
13 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
14 and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of
15 California.

16 13. Plaintiff is informed and believes and thereon alleges that at all relevant times
17 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
18 the other employees described in the Aggrieved Employee definition above, and exercised
19 control over their wages, hours, and working conditions. Plaintiff is informed and believes and
20 thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint
21 venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation,
22 successor in interest and/or predecessor in interest of some or all of the other Defendants, and
23 was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore
24 such other relationships to some or all of the other Defendants so as to be liable for their conduct
25 with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges
26 that each Defendant acted pursuant to and within the scope of the relationships alleged above,
27 that each Defendant knew or should have known about, and authorized, ratified, adopted,
28 approved, controlled, aided and abetted the conduct of all other Defendants.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

14. Plaintiff is a California resident who worked for Defendants in the County of Los Angeles, State of California, as a barista, from approximately March 2019 to September 2021. During the statutory period, Defendants classified Plaintiff as non-exempt from California's overtime requirements, and paid Plaintiff an hourly wage.

15. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours worked (including minimum wages and overtime wages), failed to provide Plaintiff with uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

16. Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Plaintiff and the Aggrieved Employees were required to work "off the clock", uncompensated. For example, Plaintiff and the Aggrieved Employees were required to use their own personal cellular telephones for work purposes, which included communication and to download an application called UKG Ready, off the clock and uncompensated. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

17. Throughout the statutory period, Defendants have wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants sometimes, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendants also did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or,

1 for shifts greater than 10 hours, by the end of the tenth hour of work. Accordingly, Defendants'
2 policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in
3 compliance with California law.

4 18. Throughout the statutory period, Defendants have wrongfully failed to authorize
5 and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
6 Defendants sometimes, but not always, required Plaintiff and the Aggrieved Employees to work
7 in excess of four consecutive hours a day without Defendants authorizing and permitting them to
8 take a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or
9 major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees
10 for rest periods that were not authorized or permitted. Defendants also did not adequately inform
11 Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendants
12 did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and
13 the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the
14 timing of rest periods. Defendants also did not have adequate policies or practices to verify
15 whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further,
16 Defendants did not maintain accurate records of employee work periods, and therefore
17 Defendants cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods
18 during the middle of each work period. Accordingly, Defendants' policy and practice was to not
19 authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance
20 with California law.

21 19. Throughout the statutory period, Defendants wrongfully required Plaintiff and the
22 Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for
23 Defendants without reimbursement. For example, Plaintiff and the Aggrieved Employees were
24 required to use their own cellular telephones for work, without reimbursement.

25 20. Throughout the statutory period, Defendants willfully failed and refused to timely
26 pay Plaintiff and the Aggrieved Employees at the conclusion of their employment all wages for
27 all minimum wages, overtime wages, meal period premium wages, and rest period premium
28

wages. Further, Defendants did not pay Plaintiff and the Aggrieved Employees their final paychecks immediately upon termination.

21. Throughout the statutory period, Defendants failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages earned for hours worked, correct overtime hours worked, correct wages for meal periods that were not provided in accordance with California law, correct wages for rest periods that were not authorized and permitted to take in accordance with California law, and Defendant's address). Further, the wage statements do not show Defendant's address as required by California law. As a result of these violations of California Labor Code § 226(a), the Plaintiff and the Class suffered injury because, among other things:

- (a) the violations led them to believe that they were not entitled to be paid minimum wages, overtime wages, meal period premium wages, and rest period premium wages to which they were entitled, even though they were entitled;
- (b) the violations led them to believe that they had been paid the minimum, overtime, meal period premium, and rest period premium wages, even though they had not been;
- (c) the violations led them to believe they were not entitled to be paid minimum, overtime, meal period premium, and rest period premium wages at the correct California rate even though they were;
- (d) the violations led them to believe they had been paid minimum, overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been;
- (e) the violations hindered them from determining the amounts of minimum, overtime, meal period premium, and rest period premium owed to them;
- (f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have

1 to perform mathematical computations to determine the amounts of wages
2 owed to them, computations they would not have to make if the wage
3 statements contained the required accurate information;

4 (g) by understating the wages truly due them, the violations caused them to
5 lose entitlement and/or accrual of the full amount of Social Security,
6 disability, unemployment, and other governmental benefits;

7 (h) the wage statements inaccurately understated the wages, hours, and wages
8 rates to which Plaintiff and the Aggrieved Employees were entitled, and
9 Plaintiff and the Aggrieved Employees were paid less than the wages and
10 wage rates to which they were entitled.

11
12 **FIRST CAUSE OF ACTION**

13 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**
14 **2004, Cal. Lab. Code § 2698 et seq.)**

15 22. Plaintiff incorporates by reference and re-alleges as if fully stated herein
16 paragraphs 1 through 21 in this Complaint.

17 22. At all times herein mentioned, Defendants were subject to the Labor Code of the
18 State of California and the applicable Industrial Welfare Commission Orders.

19 23. California Labor Code § 2699(a) specifically provides for a private right of action
20 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
21 law, any provision of this code that provides for a civil penalty to be assessed and collected by
22 the Labor and Workforce Development Agency or any of its departments, divisions,
23 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
24 be recovered through a civil action brought by an aggrieved employee on behalf of herself or
25 herself and other current or former employees pursuant to the procedures specified in Section
26 2699.3.”

27 24. Plaintiff has exhausted the administrative remedies pursuant to California Labor
28 Code § 2699.3. On January 26, 2022 Plaintiff gave written notice by online filing to the Labor

1 and Workforce Development Agency and by certified mail to Defendants of the specific
2 provisions of the Labor Code that Defendants have violated against Plaintiff and current and
3 former aggrieved employees, including the facts and theories to support the violations. Plaintiff
4 also paid the filing fee shortly after January 26, 2022. Plaintiff's PAGA case number is LWDA-
5 CM-864902-22.

6 25. The statute of limitations is tolled while a plaintiff exhausts his/her administrative
7 remedies with California's Labor and Workforce Development Agency (LWDA) prior to suit,
8 which is required by the statute. (See Cal. Lab. Code § 2699.3(d).)

9 26. More than 65 days has elapsed since Plaintiff provided notice, but the Labor and
10 Workforce Development Agency has not indicated that it intends to investigate Defendants'
11 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil
12 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
13 the Labor Code described in this Complaint. These penalties include, but are not limited to,
14 penalties under California Labor Code §§ 210, 226.3, 1197.1, and 2699(f)(2).

15 27. In addition, Plaintiff seeks penalties for Defendants' violation of California Labor
16 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
17 employing labor who willfully fails to maintain accurate and complete records required by
18 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
19 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee
20 begins and ends each work period. Meal periods, and total hours worked daily shall also be
21 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
22 keep total hours worked in the payroll period and applicable rates of pay.

23 28. During the time period of employment for Plaintiff and the Aggrieved Employees,
24 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
25 maintain accurate records showing meal periods, and accurate records showing when employees
26 begin and end each work period. Defendants' failure to provide and maintain records required by
27 the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to
28 know, understand and question the accuracy and frequency of meal periods, and the accuracy of

1 their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved
2 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
3 unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved
4 Employees have suffered and continue to suffer, substantial losses related to the use and
5 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking
6 to compel Defendants to fully perform its obligation under state law, all to their respective
7 damage in amounts according to proof at trial. Because of Defendants' knowing failure to
8 comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved
9 Employees have also suffered an injury in that they were prevented from knowing,
10 understanding, and disputing the wage payments paid to them.

11 29. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
12 of civil penalties on behalf of Plaintiff, the State of California, and similarly Aggrieved
13 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount
14 to be shown according to proof at trial. These penalties are in addition to all other remedies
15 permitted by law.

16 30. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs
17 pursuant to Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action
18 shall be entitled to an award of reasonable attorney's fees and costs."
19

20 **PRAYER FOR RELIEF**

21 Plaintiff, individually, and on behalf of all other similarly situated Aggrieved Employees,
22 prays for relief and judgment against Defendants, jointly and severally, as follows:

23 1. That the Court declare, adjudge and decree that Defendants violated the California
24 Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and
25 overtime wages), failing to provide meal periods, failing to authorize and permit rest periods,
26 failing to furnish accurate wage statements, failing to reimburse for necessary business expenses
27 incurred by Plaintiff and the Aggrieved Employees, and failing to maintain accurate records of
28 all hours worked and meal periods;

- 1 2. An award of civil penalties on behalf of Plaintiff and all similarly aggrieved
2 employees pursuant to PAGA;
3 3. Pre-judgment and post-judgment interest at the maximum rate allowed;
4 4. Attorneys' fees and costs reasonably incurred;
5 5. Injunctive and declaratory relief to the extent allowed by PAGA; and
6 6. For any additional relief that the Court deems just and proper.

7
8 Dated: April 27, 2022

Respectfully submitted,

9 MOON & YANG, APC

10
11 By: 

Kane Moon
Brett Gunther
Sohyun "Julie" Oh
Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not
a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

4 On the date indicated below, I served the document described as: **FIRST AMENDED**
5 **REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by sending [
6] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the
attached service list:

7 Rachael Lavi,
8 Tony Zhao,
9 **LITTLER MENDELSON, P.C.**
2049 Century Park East, 5th Floor
Los Angeles, California 90067.3107
Telephone: 310.553.0308
Fax No.: 310.553.5583
rlavi@littler.com
tzhao@littler.com

Philip B. Baldwin
LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, California 94104
Telephone: 415.433.1940
Fax No.: 415.399.8490
pbaldwin@littler.com

11
12 *Attorneys for Defendant*
13 **BLUE BOTTLE COFFEE, LLC AND BLUE BOTTLE COFFEE, INC.**

14 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
15 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the
16 firm's practice of collection and processing correspondence for mailing. Under that practice
17 it would be deposited with U.S. postal service on that same day with postage thereon fully
18 prepaid at Los Angeles, California in the ordinary course of business. I am aware that on
19 motion of the party served, service is presumed invalid if postal cancellation date or postage
20 meter date is more than one day after date of deposit for mailing in affidavit.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct. Executed this **April 27, 2022** at Los Angeles, California.

22
23 Ivette Hernandez
Type or Print Name

24 
Signature