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the general public as private attorney general

SUPERIOR COURT OF CALIFORNIA**FOR THE COUNTY OF LOS ANGELES**

HECTOR M. BARRAZA-BENITEZ, individually,
and on behalf of all other aggrieved employees,

Plaintiff,

vs.

DMCG, INC., a California corporation; BAIL
HOTLINE BAIL BONDS, INC., a California
corporation; and DOES 1-20, inclusive,

Defendants.

CASE NO. **23STCV03269**

**PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE §§2698 *et seq*)**

COMES NOW Plaintiff HECTOR M. BARRAZA-BENITEZ (“Plaintiff”), on behalf of the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, and asserts claims against Defendants DMCG, INC., a California corporation; BAIL HOTLINE BAIL BONDS, INC., a California corporation; and DOES 1-20, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to unpaid wages resulting from Defendant’s: (a) failure to accurately pay overtime wages, (b) failure to pay minimum wages (c) failure to provide meal periods before the end of the fifth hour worked and failure to pay an additional hour’s of pay in lieu of providing a meal period before the end of the fifth hour worked; (d) failure to authorize and permit rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour’s of pay in lieu of providing a rest period; (e) failing to pay all wages earned and owed upon separation from Defendant’s employ; and (f) failing to provide accurate itemized wage statements; (g) knowingly and intentionally failing to maintain accurate and complete records; and (h) failure to indemnify for necessary business expenses. As a result, Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

1 4. This Court has jurisdiction over Defendants because, upon information and belief,
2 each Defendant either has sufficient minimum contacts in California – Los Angeles County, or
3 otherwise intentionally avails itself of the California – Los Angeles County market so as to render
4 the exercise of jurisdiction over it by the California Courts consistent with traditional notions of fair
5 play and substantial justice.

6 5. Venue is proper in this judicial district pursuant to Code of Civil Procedure section
7 395. Defendants DMCG, INC.; BAIL HOTLINE BAIL BONDS, Inc.; and Does 1 through 20, are
8 operating and doing business in, California – Los Angeles County, and each Defendant is within the
9 jurisdiction of this Court for service of process purposes. The unlawful acts alleged herein have a
10 direct effect on Plaintiff and all other aggrieved employees within the State of California and within
11 Los Angeles County and elsewhere in California.

12 6. On information and belief, Defendants have conducted business within the State of
13 California during the purported liability period and continue to conduct business in the State of
14 California, including in the County of Los Angeles. The unlawful acts alleged herein have had a
15 direct effect on Plaintiff, and the similarly situated non-exempt aggrieved employees within Los
16 Angeles County and the State of California.

17 7. The California Superior Court also has jurisdiction in this matter because on
18 information and belief there are no federal questions at issue, as the issues herein are based solely on
19 California statutes and law, including the California Labor Code, the IWC Wage Orders, the
20 California Code of Civil Procedure, the California Civil Code, and the California Business and
21 Professions Code.

22 8. On information and belief, during the statutory liability period and continuing to the
23 present ("liability period"), Defendants consistently maintained and enforced against Defendants'
24 Non-Exempt Employees ("Aggrieved Employees"), among others, the following unlawful practices
25 and policies, in violation of California state wage and hour laws (a) failure to accurately pay overtime
26 wages, (b) failure to pay minimum wages (c) failure to provide meal periods and failure to pay an
27 additional hour's of pay in lieu of providing a meal period; (d) failure to authorize and permit rest
28 breaks for every four hours or major fraction thereof worked and failure to pay an additional hour's

1 of pay in lieu of providing a rest period; (e) failing to pay all wages earned and owed upon separation
2 from Defendant's employ; (f) failing to provide accurate itemized wage statements; (g) knowingly
3 or intentionally failing to maintain accurate and complete records; and (h) failure to indemnify for
4 necessary business expenses.

5 9. On information and belief, during the statutory liability period and continuing to the
6 present, Defendants have had a consistent policy of failing to provide its Non-Exempt Employees
7 within the State of California, including Plaintiff unfettered, uninterrupted, duty free rest periods of
8 at least (10) minutes per four (4) hours worked or major fraction thereof and failing to pay such
9 employees one (1) hour of pay at the employees regular rate of compensation for each workday that
10 the rest was untimely, interrupted and/or not provided, as required by California state wage and hour
11 laws.

12 10. On information and belief, during the statutory liability period and continuing to the
13 present, Defendants have had a consistent policy of failing to pay overtime for hours worked in
14 excess of forty hours in a workweek or more than 8 hours in a workday.

15 11. On information and belief, during the statutory liability period and continuing to the
16 present, Defendants have had a consistent policy of failing to pay minimum wages, overtime wages,
17 and wages earned on a regular pay period for all hours worked while subject to the control of
18 Defendants.

19 12. On information and belief, during the statutory liability period and continuing to the
20 present (rest and meal period liability period), Defendants have had a consistent policy of requiring
21 its Non-Exempt Employees within the State of California, including Plaintiff, to work at least five
22 (5) without a meal period and failing to pay such employees one (1) hour of pay at the employee's
23 regular rate of compensation for each workday that the meal period was untimely, interrupted and/or
24 not provided, as required by California state wage and hour laws.

25 13. On information and belief, as a result of these unlawful acts, Defendants failed to pay
26 the required meal and rest period premiums.

27 14. On information and belief, during the statutory liability period and continuing to the
28 present, Defendants have had a consistent policy of failing to timely pay wages upon separation.

15. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of failing to provide accurate itemized wage statements.

16. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of failing to indemnify work related expenses incurred.

17. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of knowingly and intentionally failing to maintain accurate and complete records.

18. Plaintiff on behalf of the general public as private attorney general and all other aggrieved employees brings this action pursuant to Labor Code 2698, et. seq. for violations enumerated under 2699.5 as follows: sections 201-203, 204, 218, 218.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1197, 1197.1, and 2802, 2802(a) seeking penalties, interest, attorneys' fees and costs.

III. PARTIES

A. Plaintiff

19. Plaintiff HECTOR M. BARRAZA-BENITEZ is a resident of Compton, California, who was employed by Defendants in Los Angeles County, California, as a non-exempt employee within the last year preceding the filing of this action. Specifically, Plaintiff was employed as a bail agent at Defendants' South Broadway location in Los Angeles and Valley Boulevard location in El Monte. Plaintiff's duties as a bail agent included customer service as well as the sale and processing of bail bonds for Defendants' customers.

20. As Defendants' employees, Plaintiff, and all other aggrieved employees were regularly required to and subsequently suffered:

(a) work in excess of eight (8) hours per day, and/or forty (40) hours per week; all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Orders (“IWC”);

- (b) perform work subject to the control of the employer without being compensated at least minimum wages, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Order (“IWC”);
- (c) work without being permitted or authorized a minimum ten-minute rest period for every four hours or major fraction thereof worked and not compensated one (1) hour of pay at his regular rate of compensation for each workday that a rest period was not provided, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Orders (“IWC”);
- (d) work in excess of five hours per day without being provided meal periods and not compensated one (1) hour of pay at the regular rate of compensation for each workday that a meal period was not provided, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Orders (“IWC”);
- (e) not paid all wages upon separation from Defendant’s employment (“IWC”);
- (f) not reimbursed for business related expenses; and
- (g) not provided accurate itemized wage statements.

21. Plaintiffs seek penalties under Labor Code 2698, et. seq. on behalf of the general public as private attorney general and all other aggrieved employees.

B. Defendants

22. On information and belief, Defendant Defendants DMCG, INC., is a California corporation operating in and authorized to conduct business in the State of California. Defendant provides provide bail bonds services throughout California, including in Los Angeles County, and employs numerous non-exempt employees at each of these locations.

23. On information and belief, Defendant a California corporation; BAIL HOTLINE BAIL BONDS, INC. is a California corporation operating in and authorized to conduct business in the State of California. Defendant provides provide bail bonds services throughout California, including in Los Angeles County, and employs numerous non-exempt employees at each of these locations.

1 24. Other than identified herein, Plaintiff is unaware of the true names, capacities,
2 relationships and extent of participation in the conduct alleged herein, of the defendants sued as
3 DOES 1 through 20, but is informed and believes and thereon alleges that said defendants are legally
4 responsible for the wrongful conduct alleged herein and therefore sues these defendants by such
5 fictitious names. Plaintiff will amend this complaint when their true names and capabilities are
6 ascertained.

7 25. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
8 indirectly, or through agents or other persons, employed Plaintiff and other members of the
9 Representative Group, and exercised control over their wages, hours, and working conditions.
10 Plaintiff is informed and believes and thereon alleges that each defendant acted in all respects
11 pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan
12 or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
13 other defendants.

14 IV. GENERAL ALLEGATIONS

15 26. Plaintiff is informed and believes, and based thereon alleges that Defendants employ
16 or employed Non-Exempt Employees throughout Northern California during the liability period.
17 Plaintiff and all other aggrieved employees were compensated based upon an hourly rate and have
18 at all times pertinent hereto been non-exempt within the meaning of the California Labor Code and
19 the implementing rules and regulations of the IWC California Wage Orders.

20 27. On information and belief, and during the relevant time frame, all aggrieved
21 employees are residents of California and citizens of the United States.

22 28. On information and belief, Defendants provide bail bonds services throughout
23 California, including in Los Angeles County. Plaintiff was employed as a non-exempt bail agent for
24 Defendants and was primarily responsible for sale and processing of bonds for clients who were
25 seeking assistance with bail.

26 29. Throughout Plaintiff's employment with Defendants, Plaintiff was not exempt from
27 the Employment Laws and Regulations, in that he routinely spent a majority of his working hours
28

1 performing duties delegated to non-exempt employees including, but not limited to, the sale and
2 processing of bail bonds.

3 30. Throughout Plaintiff's entire employment with Defendants, Plaintiff spent few to
4 none of his working hours performing work that was primarily intellectual, managerial or creative,
5 or work that required the regular and customary exercise of discretion and independent judgment
6 with respect to matters of significance on more than an occasional basis.

7 31. During Plaintiff's employment with Defendants, Plaintiff was either required to
8 work through mandatory meal and rest breaks, or was often times interrupted during his meal and
9 rest breaks resulting in shortened meal and rest breaks. Additionally, Plaintiff was often not
10 provided with or allowed to take his mandatory meal break within the first five hours of work
11 because he was meeting with clients and had no one to relieve him for such a break. On information
12 and belief, Plaintiff and other similarly situated employees were not paid for their missed meal
13 and/or rest breaks with one hour of premium pay at the regular rate of pay.

14 32. During Plaintiff's employment with Defendants, Plaintiff was regularly required to
15 work over 8 hours in one day, and/or over 40 hours in one week. On information and belief,
16 Plaintiff and other similarly situated employees were not paid for all overtime worked.

17 33. Upon information and belief, Defendants regularly failed to pay Plaintiff and other
18 non-exempt employees for all hours worked including minimum wage, overtime and double time
19 pay.

20 34. As a consequence, Plaintiff and other similarly situated non-exempt employees,
21 were not paid all wages upon termination and were not provided accurate wage statements.

22 35. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees were not
23 compensated for all hours/time worked as Defendants would regularly suffer and permit Plaintiff
24 and Aggrieved Employees to work off the clock but Plaintiff and Aggrieved Employees were not
25 compensated for hours worked off the clock. For example, Defendants did not compensate Plaintiff
26 and Aggrieved Employees while they were required to pick up from and hand in their timesheets
27 to the office every week. This policy resulted in Plaintiffs and Aggrieved Employees being
28 subjected to Defendants' unlawful policy of not compensating Plaintiffs and Aggrieved Employees

1 for all hours worked including overtime while under the control of Defendants. Defendants'
2 unlawful off-the-clock policy over time resulted in a large and disproportionate underpayment of
3 wages including overtime wages to Plaintiff and Aggrieved Employees.

4 36. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees were
5 caused to endure unprovided, untimely, interrupted meal periods of at least thirty (30) minutes for
6 many of the work days such employees worked more than six hours (6) hours, were not provided
7 uninterrupted second meal periods of at least thirty (30) minutes for any work days such employees
8 worked more than ten (10) hours, and were not paid one (1) hour of wages by Defendants in lieu
9 thereof, all in violation of the California Labor Code.

10 37. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees were
11 regularly required to work in excess of six (6) hours per day without Defendants providing them a
12 timely, uninterrupted (30) minute meal period as mandated under the California Labor Code and
13 the implementing rules and regulations of the IWC California Wage Orders as Plaintiff and
14 Aggrieved Employees were required to take shortened meal periods or not at all because they were
15 meeting or scheduling their clients. Accordingly, Plaintiff and Aggrieved Employees were not
16 provided lawful meal periods and were not provided with one hour of wages in lieu thereof under
17 Defendants' policies and practices, which included work schedules placed upon the Aggrieved
18 Employees from Defendants' management and supervisors to perform work at the expense of their
19 meal periods and Defendants' implementation of work schedules and workload requirements that
20 denied Aggrieved Employees all of their authorized meal periods. Plaintiff and the Aggrieved
21 employees did not waive any of their authorized and required meal periods, nor did they receive
22 one hour of regular pay for each day Defendants failed to provide a lawful meal period.

23 38. Plaintiff is informed and believes that during the liability period, Plaintiff and
24 Aggrieved Employees were consistently required to work in excess of four (4) hours (or major
25 fraction thereof) without receiving lawful ten (10) minute rest periods. On information and belief,
26 Defendants' management would require that Plaintiff and other aggrieved employees continue to
27 work throughout their scheduled shift without relief, and as a result would often have to take their
28 breaks late or be forced to skip their breaks. The Aggrieved Employees were also not provided with

one hour of wages in lieu thereof. Defendants' policies and practices included Defendants' implementation of a work schedule and workload requirements that denied and failed to provide the Aggrieved Employees all of their authorized rest periods, including first rest periods of at least ten (10) minutes for every shift worked of at least three and a half (3 1/2) to four (4) hours, a first and second rest period of at least ten (10) minutes for every shift worked greater than six (6) hours.

39. Defendants did not fully compensate Plaintiff and the Aggrieved Employees for hourly wages during the liability period, including by virtue of the fact that Defendants did not compensate Plaintiff and Aggrieved Employees with one extra hour of pay for Defendants' failure to provide such Non-Exempt Employees with each of their authorized rest periods and meal periods during the rest and meal period liability period.

40. On information and belief, Defendants also failed to accurately pay minimum wage and overtime pay owed to Plaintiff and Aggrieved Employees by failing to compensate them for Defendants' policy of having Plaintiff and Aggrieved Employees pick up and drop off their timesheets to Defendants' office weekly, and hours worked over eight hours in a workday or over 40 hours in the workweek at one and one-half times the Aggrieved Employees regular rate of pay.

41. Upon information and belief, Defendants failed to provide accurate itemized wage statements to Plaintiff and Aggrieved Employees as the wage statements provided failed to accurately account for all hours worked. Further, Defendants failed to provide accurate wage statements as Defendants' wage statements do not identify premium pay or pay period start dates as required by Labor Code § 226.

42. Upon information and belief, Defendants failed to reimburse and/or indemnify Plaintiff and Aggrieved Employees for all necessary expenditures incurred including personal cell phone usage; and

43. Upon information and belief, Defendants failed to keep accurate records pursuant to Labor Code § 1174.5.

44. Upon information and belief, Defendants knew and or should have known that it is improper to implement policies and commit unlawful acts such as:

- (a) requiring employees to work over eight (8) hours in a day and forty (40) hours in a work week without being provided the required overtime pay;
- (b) requiring employees to perform work subject to the control of the Defendant without being compensated at least minimum wages;
- (c) requiring employees to work four (4) hours or a major fraction thereof without being provided a minimum ten (10) minute rest period and without compensating the employees with one (1) hour of pay at the employees' regular rate of compensation for each workday that a rest period was not provided;
- (d) requiring employees to work in excess of five (5) hours or ten (10) hours per day without being provided an uninterrupted thirty- minute meal period and/or a second meal period, and without compensating employees with one (1) hour of pay at the regular rate of compensation for each workday that such a meal period was not provided;
- (e) requiring employees to drop off and pick up their timesheets to Defendant's office weekly without compensation;
- (f) requiring employees to incur necessary business expenses without indemnification and/or reimbursement;
- (g) failing to pay all wages earned during the regular pay period;
- (h) failing to pay all wages earned upon separation from Defendants' employ;
- and
- (i) failing to provide accurate itemized wage statements.

45. In addition to the violations above, and on information and belief, Defendants knew they had a duty to compensate Plaintiff and Aggrieved Employees for the allegations asserted herein, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so.

V. REPRESENTATIVE CLAIMS

THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 et seq.

1 46. Plaintiff incorporates by reference and re-alleges each and every allegation contained
2 above, as though fully set forth herein.

3 47. On or about May 11, 2022, Plaintiff complied with notice requirements pursuant to
4 Labor Code section 2699.3. A copy of the submission to LWDA is attached hereto as **Exhibit A**. A
5 copy of Plaintiff's letter to Defendants indicating that they were put on notice of the claims alleged
6 here and that the notice requirement has been satisfied is attached as **Exhibit B**. Sixty-five days have
7 passed and the LWDA has not indicated intent to investigate the claims. Therefore, Plaintiff may
8 proceed with this action in a representative capacity. The substance and violations set forth in this
9 Complaint of which the LWDA was provided timely notice, Plaintiff has also sent a copy of this
10 PAGA Representative Action Complaint to the LWDA.

11 48. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a). Plaintiff
12 brings this cause of action on behalf the general public and all non-exempt aggrieved employees,
13 acting on behalf of the California Attorney General as private attorney general.

14 49. Pursuant to Labor Code section 2699(a) Plaintiff seeks to recover civil penalties due
15 and owing for which Defendants are liable due to numerous Labor Code violations as set forth in
16 this Complaint, including without limitation Labor Code section 201-203, 204, 218, 218.5, 218.6,
17 226, 266.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 2802, 2802(a) and 2698
18 *et seq.*, applicable IWC Wage Orders and California Code of Regulations, Title 8, section 11000 *et*
19 *seq.*

20 50. At all times relevant, Plaintiff and all other aggrieved employees regularly
21 performed non-exempt work in excess of 50% of the time, and thus, were subject to the meal and
22 rest break requirements of the applicable IWC wage order and the Labor Code.

23 51. Defendants violated Labor Code sections 510, 558, and 1194 by failing to accurately
24 pay overtime wages as discussed above due to Defendants' unlawful off the clock policy and failure
25 to pay all hours worked in excess of eight hours in a day and/or 40 hours in a workweek. Therefore,
26 Defendants violated section 510, 558 and 1194 by not compensating its Non- Exempt Employees for
27 work performed in excess of eight hours (8) in a day or forty hours in a work week (40). Section
28 510 of the Labor Code codifies the right to overtime compensation at the rate of one and one-half

1 times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40)
2 hours in a work week.

3 52. Defendants also violated Labor Codes sections 200, 1194, and 1197 for failing to pay
4 minimum wages as described above. Labor Code §1197 provides that employees are to be paid
5 minimum wage for each hour worked and cannot be averaged and/or payment of a lesser wage than
6 the established is unlawful.

7 53. Defendants violated Labor Code sections 512 and 226.7 for failing to provide timely,
8 uninterrupted meal periods and requiring unlawful on duty meal periods, or compensation in lieu
9 thereof. Pursuant to Labor Code section 512, no employer shall employ an employee for a work
10 period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes
11 in which the employee is relieved of all of his or her duties..

12 54. Defendants failed to provide Plaintiff and all other aggrieved employees
13 uninterrupted duty free first meal periods of not less than thirty (30) minutes. Defendants
14 implemented and enforced policies of on duty meal period practices which required employees to
15 work during their meal periods, to forego their meal periods, and/or to return to work from meal
16 periods prior to thirty (30) uninterrupted minutes. As a proximate result of the aforementioned
17 violations, Plaintiff and all other Aggrieved Employees have been damaged in an amount according
18 to proof at time of trial.

19 55. Plaintiff, and on information and belief, all aggrieved employees, were systematically
20 not permitted or authorized to take one ten-minute rest period for every four hours worked or major
21 fraction thereof, which is a violation of the Labor Code and IWC wage order 4-2001, section 12. On
22 shifts where Plaintiff and aggrieved employees worked in excess of three and a half hours, they were
23 routinely not permitted or authorized to take lawful rest periods. Plaintiff, and on information and
24 belief, aggrieved employees, were not compensated with one hour of wages for every day in which
25 a rest period was missed, untimely or cut short as a result of Defendants' policies, practices, or work
26 demands. By failing to authorize and permit a ten-minute rest period for every four hours or major
27 fraction thereof worked per day, and by failing to provide compensation for such unprovided rest
28

1 periods as alleged above, Defendants willfully violated the provisions of Labor Code sections 226.7,
2 512 and the applicable IWC Wage Order.

3 56. Plaintiff, and on information and belief, all aggrieved employees, were required to
4 purchase electronics and use their cell phone and Wi-Fi for which they were not reimbursed. By
5 failure to reimburse and/or indemnify as alleged above, Defendants willfully violated the provisions
6 of Labor Code section 2802.

7 57. On information and belief, Defendants failed to provide accurate itemized wage
8 statements pursuant to Labor Code section 226 which failed to include, all hours worked, including
9 off the clock, overtime and the accurate overtime rate, and the lawful meal and rest period premiums
10 earned, which are due and owing to Plaintiff and the aggrieved employees. As a result, Plaintiff and
11 Aggrieved Employees were harmed as they are unable to determine if they were appropriately
12 compensated for all hours worked.

13 58. On information and belief, Defendants failed to maintain accurate records as required
14 by Labor Code section 1174.5.

15 59. As a result of Defendants' unlawful conduct, Plaintiff and Aggrieved employees are
16 entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours worked.

17 60. Plaintiff and the Representative Aggrieved Employees are entitled to recover
18 Penalties and attorneys' fees and costs under Labor Code section 2698, et. seq.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 21 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
- 22 2. For reasonable attorneys' fees and costs; and
- 23 3. For such other and further relief as the Court deems proper.

24 Dated: February 14, 2023

MAKAREM & ASSOCIATES, APLC

25 By: *Daniel Bass*
26 Ronald W. Makarem
27 Daniel J. Bass
28 Attorneys for Plaintiff, individually
and on behalf of all other aggrieved
employees

EXHIBIT A

Daniel Bass

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, May 11, 2022 10:07 PM
To: Daniel Bass
Subject: Thank you for submission of your PAGA Case.

5/11/2022

LWDA Case No. LWDA-CM-883374-22
Law Firm : Makarem & Associates, APLC
Plaintiff Name : Hector M. Barraza-Benitez
Employer: DMCG, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT B



Ron Makarem*
Samuel Almon
Jared Walder
Alexis Hames
Dan Bass
Marina Serrano
Rex Phillips

Of counsel
Deborah Gutierrez
Cameron Stewart
Marcus Jackson
Kirk Donnelly

May 11, 2022

FILED ONLINE WITH THE LWDA

ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA U.S. CERTIFIED MAIL

DMCG, Inc.
3230 Vine Street, Suite 200
Riverside, California 92507

Bail Hotline Bail Bonds, Inc.
3230 Vine Street, Suite 200
Riverside, California 92507

Re: *Barraz-Benitez, et al. v. DMCG, Inc. et al.*
Notice of Labor Code Violations Pursuant to Labor Code section 2699.3(a)(l)

Dear PAGA Administrator:

This letter shall constitute the required written notification under Labor Code section 2699.3(a)(l) of Labor Code violations alleged against **DMCG, Inc.; Bail Hotline Bail Bonds, Inc.; and related entities** ("Employer"). Our client, **Hector M. Barraza-Benitez, and other similarly situated aggrieved employees** (together, "Claimants"), worked as non-exempt employees for Employer. Claimants hereby issue this Notice to both the LWDA and Employer in compliance with the notice requirements of Labor Code section 2699.3(a)(l).

Claimants hereby give Notice of the following specific provisions of the Labor Code that have been violated and the facts and theories to support the alleged violations:

Violation	Facts and Theories
Labor Code sections 204, 218,	Labor Code section 204 provides that covered employees are entitled to receive all wages earned for the pay period corresponding to the payday.

218.5, 218.6 & 1194	Here, Employer regularly failed to pay Claimants all wages earned for labor performed each pay period. For example, Employer regularly suffered or permitted Claimants to work off the clock, but Claimants were not compensated for hours worked off the clock by, among other things, management unilaterally reducing employees' reported hours worked and being directed to clock out and continue to work. Employer also failed to provide the requisite one hour of pay at the regular rate of compensation for shifts with missed or non-compliant meal and/or rest periods. Accordingly, Employer violated the above code sections.
Labor Code section 1194	Labor Code section 1194 provides: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Here, Employer failed to pay Claimants their earned minimum and/or overtime wages for all hours worked. For example, Employer regularly suffered or permitted Claimants to work off the clock, but Claimants were not compensated for hours worked off the clock by, among other things, management unilaterally reducing employees' reported hours worked. Moreover, Employer failed to properly calculate Claimants' regular rate of pay for purposes of paying overtime, including by failing to properly include all bonuses and commissions into calculation of Claimants' regular rate.
Labor Code sections 510 and 1194	Labor Code section 510 states: "Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." Labor Code section 1194 provides "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Here, Claimants worked in excess of eight hours in one workday and/or in excess of 40 hours in one workweek, and were not compensated with overtime pay. As a result of this practice, Labor Code sections 510 and 1194 were violated.

	For example, Employer suffered or permitted Claimants to work off the clock, including when management unilaterally reducing employees' reported hours worked and/or refused to pay overtime hours. Employer neither compensated Claimants for such work nor counted the time spent working off the clock for purposes of calculating overtime. Moreover, Employer failed to properly calculate Claimants' regular rate of pay for purposes of paying overtime, including by failing to properly include all bonuses and commissions into calculation of Claimants' regular rate. As a result of these and related practices, Labor Code sections 510 and 1194 were violated.
Labor Code Sections 226.7 and 512	Labor Code Sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes. Under these provisions, a first meal period is required no later than the end of an employee's fifth hour of work, and a second meal period no later than the end of an employee's 10th hour of work. If an employer fails to provide an employee meal periods in accordance with this law, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. Here, Employer regularly failed to provide meal periods until after Claimants had completed a work period of more than five hours and to remain on duty during these lunches, if one was received at all. Claimants were not compensated with an hour of pay at their regular rate of pay for shifts when their meal periods were interrupted, not taken or were taken late. Accordingly, Employer violated these code sections. Additionally, Employer failed to pay Claimants for one (1) hour of pay at their regular rate of compensation for each missed or non-compliant meal period, including but not limited to, a failure to properly calculate Claimants' regular rate of pay.
Labor Code section 226.7	Labor Code section 226.7 provides that employers shall authorize and permit employees to take rest periods at the rate of (10) minutes net rest time per four (4) hours of work, or major fraction thereof. This means that an employer must provide 10 minutes net rest time for each four-hour period worked by employees. If an employer fails to provide an employee rest periods in accordance with this law, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided. Here, Employer did not comply with these rest period provisions, as Employer routinely failed to authorize and permit Claimants to take their ten (10) minute rest periods for each four (4) hours, or major

	fraction thereof, they had worked. For example, due to the press of business and/or lack of staffing, Claimants routinely performed four consecutive hours of work without receiving a ten-minute rest period, or had their rest period delayed or interrupted. Employer also failed to pay Claimants for one (1) hour of pay at their regular rate of compensation for each day on which Claimants did not receive one or more compliant rest periods, including but not limited to, a failure to properly calculate Claimants' regular rate of pay.
Labor Code Section 226	Labor Code Section 226 provides: "An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment." Here, Employer engaged in practices violating Labor Code section 226. For example, Employer failed to provide compliant wage statements because they failed to reflect all compensable hours Claimants worked, including time worked while employees were off the clock and failed to notate the pay period in which overtime was paid for. As another example, Employer failed to provide compliant wage statements because the wage statements failed to list meal and/or rest period premiums owed for shifts with non-compliant meal/rest periods.
Labor Code section 226, 1174, and 1174.5	Labor Code section 1174 provides that employers shall keep payroll records showing the hours worked and wages paid to each employee. These records are to be kept in accordance with rules established by the commission, but must be kept on file for a minimum of three (3) years.

	Labor Code section 1174.5 provides: “Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).” Here, as a result of the aforementioned practices, <i>i.e.</i>, Employer suffering or permitting Claimants to work off the clock, including management’s unilateral reduction in Employees’ reported hours worked, failing to pay all overtime wages due, and failing to authorize and permit compliant meal and rest periods, Employer knowingly and intentionally failed to maintain records, including but not limited to: all hours worked by Claimants, meal periods taken, and accurate itemized wage statements.
Labor Code Sections 201, 202, and 203	Labor Code Section 201 states that if an employer discharges an employee, earned but unpaid wages at the time of discharge are due and payable immediately. Similarly, Labor Code Section 202 provides “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Under section 203, if an employer willfully fails to pay in accordance with sections 201 or 202, any wages of an employee who is discharged or quits shall continue as a penalty. Here, Employer failed to pay all earned wages, including wages for hours worked off the clock, unpaid overtime, and wages for non-compliant meal and rest periods to employees who quit or were discharged, in violation of Sections 201 and 202. Nor has Employer paid any of the continuation wages under Section 203.
Labor Code Section 2802	Labor Code Section 2802 states an employer shall indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties or in obedience to an employer’s directives. Here, Employer failed to reimburse Claimants and other similarly aggrieved employees for all necessary expenditures required by Employer, including but not limited to: uniform expenses, mileage and use of personal cellular phones in violation of Labor Code § 2802.

Please notify us within the required time period whether or not the Labor and Workforce Development Agency intends to investigate these alleged violations. If notice is not received within 65 calendar days of the postmark date of this letter, we will proceed with a civil action for penalties pursuant to Labor Code Section 2699. This civil action will be pursued on behalf of Claimants. Please send the Notice to our office located at 11601 Wilshire Blvd., Suite 2440, Los Angeles, California 90025.

Thank you for your attention to this matter.

Very truly yours,

MAKAREM & ASSOCIATES, APLC

By: *Daniel Bass*
Daniel J. Bass