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Superior Court of California

County of Sonoma

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By: Angela Rubiano, Deputy Clerk

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SONOMA**

14 COLLEEN DUARTE, KEIMONIE
15 GOLDEN and PETER KHVANN, on behalf
16 of the State of California, as a private
17 attorney general,

18 Plaintiff,

19 vs.

20 POINT PICK-UP TECHNOLOGIES, INC., a
21 Corporation; and DOES 1 through 50,
22 inclusive,

23 Defendants.

Case No. SCV-271148

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR:**

1. Civil Penalties Pursuant to Labor Code
§ 2699. *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
226(a), 226.7, 351, 510, 512, 558(a)(1)(2),
1194, 1197, 1197.1, 1198, 2750.3 *et. seq.*,
2802. California Code of Regulations.
Title 8. Section 11040. Subdivision 5(A)-
(B), and the applicable Wage Order(s).

1 Plaintiffs Colleen Duarte, Keimonie Golden and Peter Khavann (“PLAINTIFFS”), on
2 behalf of the people of the State of California and as an “aggrieved employee” acting as a
3 private attorney general under the Labor Code Private Attorney General Act of 2004, § 2699,
4 *et seq.* (“PAGA”) only, alleges on information and belief, except for her own acts and
5 knowledge which are based on personal knowledge, the following:

6 **INTRODUCTION**

7 1. PLAINTIFFS bring this action against Defendant Point Pick-up Technologies,
8 Inc. (referred to as “DEFENDANT”) seeking only to recover PAGA civil penalties for
9 themselves, and on behalf of all current and former aggrieved employees that worked for
10 DEFENDANT. PLAINTIFFS do **not seek to recover anything other than penalties as**
11 **permitted by California Labor Code § 2699**. To the extent that statutory violations are
12 mentioned for wage violations, PLAINTIFFS do not seek underlying general and/or special
13 damages for those violations, but simply the civil penalties permitted by California Labor Code
14 § 2699.

15 2. California has enacted the PAGA to permit an individual to bring an action on
16 behalf of herself and on behalf of others for PAGA penalties *only*, which is the precise and sole
17 nature of this action.

18 3. Accordingly, PLAINTIFFS seek to obtain all applicable relief for
19 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
20 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
21 complaint should be construed as attempting to obtain any relief that would not be available in
22 a PAGA-only action.

23 4. Defendant Point Pick-up Technologies, Inc. (“DEFENDANT”) in order to service
24 their customers, hires workers to aid DEFENDANT in providing delivery services. The cost,
25 as proscribed by law, of the personnel hired to work for DEFENDANT, includes not only the
26 pay and overtime pay of these employees but the cost of the employer's share of tax payments
27 to the federal and state governments for income taxes, social security taxes, medicare insurance,
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1 unemployment insurance and payments for workers' compensation insurance ("Business Related
2 Expenses"). To avoid the payment of these legally proscribed Business Related Expenses to the
3 fullest extent possible, DEFENDANT devised a scheme to place the responsibility for the
4 payment of these costs and expenses of DEFENDANT on the shoulders of PLAINTIFFS and
5 other delivery drivers. As employer, DEFENDANT is legally responsible for the payment of
6 all these Business Related Expenses. This lawsuit is brought on behalf of the delivery drivers
7 and other similar job titles for persons who worked for DEFENDANT in California and were
8 classified as independent contractors, in order to collect the wages due them as employees of
9 DEFENDANT, the cost of the employer's share of payments to the federal and state
10 governments for income taxes, social security taxes, medicare insurance, unemployment
11 insurance and payments for workers' compensation insurance, plus penalties and interest.

12 13 **THE PARTIES**

14 5. DEFENDANT at all relevant times mentioned herein conducted and continues
15 to conduct substantial and regular business in the State of California.

16 6. DEFENDANT operates a business that connects individuals looking for delivery
17 services on demand.

18 7. PLAINTIFF Colleen Duarte was employed by DEFENDANT as a Delivery
19 Driver from July of 2021 to August of 2021 and was classified by DEFENDANT as an
20 independent contractor during her entire employment with DEFENDANT. PLAINTIFF 7 .

21 8. PLAINTIFF Keimonie Golden was employed by DEFENDANT as a Delivery
22 Driver from April of 2022 to July of 2022 and was classified by DEFENDANT as an
23 independent contractor during her entire employment with DEFENDANT

24 9. PLAINTIFF Peter Khvann was employed by DEFENDANT as a Delivery Driver
25 from July of 2021 to August of 2021 and was classified by DEFENDANT as an independent
26 contractor during her entire employment with DEFENDANT.

27 10. California Labor Code Section 226.8 provides that "[i]t is unlawful for any person
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1 or employer to engage in . . . [w]illful misclassification of an individual as an independent
2 contractor.” The penalty for willful misclassification of employees is a “civil penalty of not less
3 than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for
4 each violation, in addition to any other penalties or fines permitted by law.” It is further
5 provided that, in the event that an employer is found to have engaged in “a pattern or practice
6 of these violations,” the penalties increase to “not less than ten thousand dollars (\$10,000) and
7 not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other
8 penalties or fines permitted by law.” Cal. Labor Code § 226.8.

9 11. Here, DEFENDANT has willfully misclassified PLAINTIFFS and other Delivery
10 Drivers, and other similarly situated persons with similar job titles collectively referred herein
11 as “Delivery Drivers” as described in Cal. Labor Code § 226.8 and Labor Code Section 2750.3
12 *et seq.*, and further, that DEFENDANT has engaged in a “pattern or practice” of such violations
13 as contemplated by the California Labor Code.

14 12. Upon hire, the position of a Delivery Driver was represented by DEFENDANT
15 to PLAINTIFFS and the other Delivery Drivers as an independent contractor position capable
16 of paying a flat rate per route worked for DEFENDANT. PLAINTIFFS and other Delivery
17 Drivers were paid at a flat rate to perform services on DEFENDANT’s behalf. PLAINTIFFS
18 and other Delivery Drivers were not compensated overtime wages for any of their time spent
19 working in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek.

20 13. To perform their job duties, the PLAINTIFFS and the other Delivery Drivers
21 performed work subject to the control of DEFENDANT in that DEFENDANT had the authority
22 to exercise complete control over the work performed and the manner and means in which the
23 work was performed. DEFENDANT provided the customers and DEFENDANT provided the
24 instructions as to how to perform their services.

25 14. California Labor Code § 3357 defines “employee” as “every person in the service
26 of an employer under any appointment or contact of hire or apprenticeship, express or implied,
27 oral or written, whether lawfully or unlawfully employed.” In addition to the California Labor
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1 Code's presumption that workers are employees, the California Supreme Court has determined
2 the most significant factor to be considered in distinguishing an independent contractor from
3 an employee is whether the *employer or principal has control or the right to control the work*
4 *both as to the work performed and the manner and means in which the work is performed.*
5 DEFENDANT heavily controlled both the work performed and the manner and means in which
6 PLAINTIFFS and the other Delivery Drivers performed their work in that:

7 (a) PLAINTIFFS and other Delivery Drivers were not involved in a distinct
8 business, but instead were provided with instructions as to how to perform their work and the
9 manner and means in which the work was to be performed by means of DEFENDANT's
10 manuals and written instructions;

11 (b) PLAINTIFFS and other Delivery Drivers were continuously provided with
12 training and supervision, including following DEFENDANT's company documents and
13 received training from DEFENDANT as to how and in what way to perform services;

14 (c) DEFENDANT set the requirements as to what policies and procedures all
15 of the Delivery Drivers were to follow;

16 (d) PLAINTIFFS and other Delivery Drivers had no opportunity for profit or
17 loss because DEFENDANT only paid these employees based on the tasks performed for
18 DEFENDANT and DEFENDANT controlled and assigned the schedules PLAINTIFFS and
19 other Delivery Drivers were required to work. DEFENDANT also controlled which Delivery
20 Drivers would receive a particular delivery assignment;

21 (e) PLAINTIFFS and other Delivery Drivers performed delivery services
22 which is part of DEFENDANT's principal business and is closely integrated with and essential
23 to the employer's business of providing delivery services to their customers;

24 (f) PLAINTIFFS and other Delivery Drivers performed the work themselves
25 and did not hire others to perform their work for them;

26 (g) PLAINTIFFS and other Delivery Drivers did not have the authority to
27 make employment-related personnel decisions;

1 (h) PLAINTIFFS and other Delivery Drivers performed their work in a
2 particular order and sequence in accordance with DEFENDANT's company policy; and,

3 (i) DEFENDANT had the "right" to control every critical aspect of
4 DEFENDANT's daily services in that DEFENDANT provided step-by-step instructions to
5 PLAINTIFFS and other Delivery Drivers as to the entire process of assisting clients.
6 PLAINTIFFS and other Delivery Drivers provided services ONLY for DEFENDANT's
7 customers, which DEFENDANT controlled via the company's technology.

8 15. As a result, stripped of all the legal fictions and artificial barriers to an honest
9 classification of the relationship between PLAINTIFFS and all the other Delivery Drivers on
10 the one hand, and DEFENDANT on the other hand, PLAINTIFFS and all the other Delivery
11 Drivers are and were employees of DEFENDANT and not independent contractors of
12 DEFENDANT and should therefore be properly classified as non-exempt, hourly employees.

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14 16. PLAINTIFFS, and such persons that may be added from time to time who satisfy
15 the requirements and exhaust the administrative procedures under the Private Attorney General
16 Act, brings this Representative Action on behalf of the State of California with respect to herself
17 and all individuals who worked for DEFENDANT in California as a Delivery Driver and who
18 were classified as independent contractors ("AGGRIEVED EMPLOYEES") during the time
19 period of May 2, 2021 until a date as determined by the Court (the "PAGA PERIOD").

20 17. PLAINTIFFS, on behalf of themselves and all AGGRIEVED EMPLOYEES
21 presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this
22 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for
23 DEFENDANT's violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a),
24 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2750.3 *et seq.*, 2802, California
25 Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage
26 Order(s). Based upon the foregoing, PLAINTIFFS and all AGGRIEVED EMPLOYEES are
27 aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

18. As a matter of company policy, practice and procedure, DEFENDANT has unlawfully, unfairly and/or deceptively classified the AGGRIEVED EMPLOYEES as "independent contractors" in order to unlawfully avoid compliance with all applicable federal and state laws that require payment for all time worked, business expenses, and the employer's share of payroll taxes and mandatory insurance. As a result of the scheme to defraud the federal and state governments and the AGGRIEVED EMPLOYEES, PLAINTIFFS and the AGGRIEVED EMPLOYEES were underpaid throughout their employment with DEFENDANT.

19. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendants sued here as DOES 1 through 50, inclusive, are presently unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS are informed and believe, and based thereon, allege that each of the Defendants designated herein is legally responsible in some manner for the unlawful acts referred to herein. PLAINTIFFS will seek leave of Court to amend this Complaint to reflect the true names and capacities of the Defendants when they have been ascertained and become known.

20. The agents, servants and/or employees of the Defendants and each of them acting on behalf of the Defendants acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to the PLAINTIFFS and the other AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants' agents, servants and/or employees.

THE CONDUCT

21. The finite set of tasks required of PLAINTIFFS and the AGGRIEVED

1 EMPLOYEES as defined by DEFENDANT was executed by them through the performance of
2 non-exempt labor.

3 22. Although PLAINTIFFS and the AGGRIEVED EMPLOYEES performed
4 non-exempt labor subject to DEFENDANT's complete control over the manner and means of
5 performance, DEFENDANT instituted a blanket classification policy, practice and procedure
6 by which all of these AGGRIEVED EMPLOYEES were classified as "independent contractors"
7 exempt from compensation for overtime worked, meal breaks and rest breaks, and
8 reimbursement for business related expenses. By reason of this uniform misclassification, the
9 AGGRIEVED EMPLOYEES were also required to pay DEFENDANT's share of payroll taxes
10 and mandatory insurance premiums. As a result of this uniform misclassification practice,
11 policy and procedure applicable to PLAINTIFFS and the AGGRIEVED EMPLOYEES who
12 performed this work for DEFENDANT, DEFENDANT engaged in a company-wide policy,
13 practice and procedure which uniformly failed to properly classify PLAINTIFFS and the
14 AGGRIEVED EMPLOYEES as employees and thereby failed to pay them overtime wages for
15 overtime worked, reimbursement of business related expenses, failed to provide them with meal
16 and rest breaks, and failed to reimburse these employees for the employer's share of payroll
17 taxes and mandatory insurance. The proper classification of these employees is
18 DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the obligation
19 to meet this burden, DEFENDANT violated the California Labor Code and regulations
20 promulgated thereunder as herein alleged. DEFENDANT did not have in place a policy,
21 practice or procedure that provided meal and/or rest breaks to PLAINTIFFS and the
22 AGGRIEVED EMPLOYEES as evidenced by DEFENDANT's business records which contain
23 no record of these breaks.

24 23. DEFENDANT, as a matter of law, has the burden of proving that employees are
25 properly classified and that DEFENDANT otherwise complies with applicable laws.
26 DEFENDANT, as a matter of corporate policy, erroneously and unilaterally classified all the
27 AGGRIEVED EMPLOYEES as independent contractors.

1 24. PLAINTIFFS and all the AGGRIEVED EMPLOYEES are and were uniformly
2 classified and treated by DEFENDANT as independent contractors at the time of hire and
3 thereafter, DEFENDANT failed to take proper steps to determine whether the PLAINTIFFS and
4 the AGGRIEVED EMPLOYEES are properly classified under the applicable Industrial Welfare
5 Commission Wage Order and Cal. Lab. Code § 510 as exempt from applicable labor laws.
6 Since DEFENDANT affirmatively and willfully misclassified PLAINTIFFS and the
7 AGGRIEVED EMPLOYEES in compliance with California labor laws, DEFENDANT's
8 practices violated and continue to violate California law. In addition, DEFENDANT acted
9 deceptively by falsely and fraudulently classifying PLAINTIFFS and each AGGRIEVED
10 EMPLOYEE as independent contractors when DEFENDANT knew or should have known that
11 this classification was false and not based on known facts. DEFENDANT also acted
12 deceptively by violating the California labor laws. In doing so, DEFENDANT cheated the
13 competition by paying the AGGRIEVED EMPLOYEES less than the amount competitors paid
14 who complied with the law and cheated the AGGRIEVED EMPLOYEES by not paying them
15 in accordance with California law.

16 25. As a result of their rigorous work schedules, PLAINTIFFS and the AGGRIEVED
17 EMPLOYEES were from time to time unable to take off duty meal breaks and were not fully
18 relieved of duty for meal periods. PLAINTIFFS and the AGGRIEVED EMPLOYEES were
19 required from time to time to perform work as ordered by DEFENDANT for more than five (5)
20 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed
21 to provide PLAINTIFFS and the AGGRIEVED EMPLOYEES with a second off-duty meal
22 period from time to time in which these employees were required by DEFENDANT to work ten
23 (10) hours of work. PLAINTIFFS and the AGGRIEVED EMPLOYEES therefore forfeited
24 meal breaks without additional compensation and in accordance with DEFENDANT's strict
25 corporate policy and practice.

26 26. During the PAGA PERIOD, PLAINTIFFS and the AGGRIEVED EMPLOYEES
27 were also required from time to time to work in excess of four (4) hours without being provided
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1 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
2 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
3 time, a first and second rest period of at least ten (10) minutes for some shifts worked of
4 between six (6) and eight (8) hours from time to time, and a first, second and third rest period
5 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
6 PLAINTIFFS and the AGGRIEVED EMPLOYEES were also not provided with one hour
7 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS and the
8 AGGRIEVED EMPLOYEES were from time to time denied their proper rest periods by
9 DEFENDANT and DEFENDANT's managers.

10 27. DEFENDANT intentionally and knowingly fails to reimburse and indemnify
11 PLAINTIFFS and the AGGRIEVED EMPLOYEES for required business expenses incurred
12 by PLAINTIFFS and the AGGRIEVED EMPLOYEES in direct consequence of discharging
13 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers
14 are required to indemnify employees for all expenses incurred in the course and scope of their
15 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or
16 her employee for all necessary expenditures or losses incurred by the employee in direct
17 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
18 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
19 believed them to be unlawful."

20 28. In the course of their employment PLAINTIFFS and the AGGRIEVED
21 EMPLOYEES as a business expense, are required by DEFENDANT to use personal cellular
22 phones and their home offices as a result of and in furtherance of their job duties as employees
23 for DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
24 associated with the use of the personal cellular phones and personal vehicles for
25 DEFENDANT's benefit. In order to work as a Delivery Driver for DEFENDANT,
26 PLAINTIFFS and the AGGRIEVED EMPLOYEES are required to communicate with
27 DEFENDANT and as such it is mandatory to have a cell phone that is compatible to remain in
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1 constant contact with DEFENDANT and DEFENDANT's customers. As a result, in the course
2 of their employment with DEFENDANT, PLAINTIFFS and the AGGRIEVED EMPLOYEES
3 incurred unreimbursed business expenses which include, but are not limited to, costs related to
4 the use of their personal cellular phones and personal vehicle expenses all on behalf of and for
5 the benefit of DEFENDANT.

6 29. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the
7 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to
8 show, among other things, the correct amount of time worked, including, work performed in
9 excess of eight (8) hours in a workday and/or forty (40) hours in any workweek, and correct
10 amount of net and/or gross wages earned. Cal. Lab. Code § 226 provides that every employer
11 shall furnish each of his or her employees with an accurate itemized wage statement in writing
12 showing, among other things, gross wages earned and all applicable hourly rates in effect during
13 the pay period and the corresponding amount of time worked at each hourly rate. As a result,
14 DEFENDANT provided PLAINTIFFS and the AGGRIEVED EMPLOYEES with wage
15 statements which violated Cal. Lab. Code § 226.

16 30. By reason of this conduct applicable to PLAINTIFFS and all the AGGRIEVED
17 EMPLOYEES, DEFENDANT engaged in a company-wide policy, practice and procedure
18 which failed to correctly classify PLAINTIFFS and the AGGRIEVED EMPLOYEES as
19 employees. The proper classification of these employees is DEFENDANT's burden. As a result
20 of DEFENDANT's intentional disregard of the obligation to meet this burden, DEFENDANT
21 failed to pay all required overtime compensation for work performed by PLAINTIFFS and the
22 AGGRIEVED EMPLOYEES and violated the California Labor Code and regulations
23 promulgated thereunder as herein alleged.

24 31. All of the conduct and violations alleged herein occurred during the PAGA
25 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
26 PLAINTIFFS during the PAGA PERIOD, PLAINTIFFS seek penalties for those violations that
27 affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
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1 AJDAR 12157 (Certified for Publication 12/19/18).

2 **JURISDICTION AND VENUE**

3 32. This Court has jurisdiction over this Action pursuant to California Code of Civil
4 Procedure, Section 410.10.

5 33. Venue is proper in this Court pursuant to Cal. Code of Civ. Proc. Sections 395 and
6 395.5, because PLAINTIFFS reside in this County and DEFENDANT (i) currently maintains
7 and at all relevant times maintained its principal offices and facilities in this County and/or
8 conducts substantial business in this County, and (ii) committed the wrongful conduct herein
9 alleged in this County against PLAINTIFFS and the AGGRIEVED EMPLOYEES.

10
11 **FIRST CAUSE OF ACTION**

12 **For Violation of the Private Attorneys General Act**

13 **[Cal. Lab. Code §§ 2698, *et seq.*]**

14 **(By PLAINTIFFS and Against All Defendants)**

15 34. PLAINTIFFS reallege and incorporate by this reference, as though fully set
16 forth herein, the prior paragraphs of this Complaint.

17 35. PAGA is a mechanism by which the State of California itself can enforce state
18 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
19 the state's labor law enforcement agencies. An action to recover civil penalties under
20 PAGA is fundamentally a law enforcement action designed to protect the public and not to
21 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
22 but to create a means of "deputizing" citizens as private attorneys general to enforce the
23 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
24 public interest to allow aggrieved employees, acting as private attorneys general to recover
25 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
26 claims cannot be subject to arbitration.

27 36. PLAINTIFFS, and such persons that may be added from time to time who
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1 satisfy the requirements and exhaust the administrative procedures under the Private
2 Attorney General Act, bring this Representative Action on behalf of the State of California
3 with respect to herself and all individuals who worked for DEFENDANT in California as a
4 Delivery Driver and who were classified as independent contractors ("AGGRIEVED
5 EMPLOYEES") during the time period of May 2, 2021 until a date as determined by the
6 Court (the "PAGA PERIOD").

7 37. On May 2, 2022, Plaintiff Duarte gave written notice by electronic mail to the
8 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
9 employer of the specific provisions of this code alleged to have been violated as required by
10 Labor Code § 2699.3. The statutory waiting period for PLAINTIFFS to add these
11 allegations to the Complaint has expired. As a result, pursuant to Section 2699.3,
12 PLAINTIFFS may now commence a representative civil action under PAGA pursuant to
13 Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
14 EMPLOYEES as herein defined.

15 38. On October 7, 2022, Plaintiffs Duarte and Golden gave written notice by
16 electronic mail to the Agency and by certified mail to the employer of the specific provisions
17 of this code alleged to have been violated as required by Labor Code § 2699.3. The
18 statutory waiting period for Plaintiffs Duarte and Golden to add Plaintiff Golden to the First
19 Amended has expired. As a result, pursuant to Section 2699.3, Plaintiffs Duarte and Golden
20 may now commence a representative civil action under PAGA pursuant to Section 2699 as
21 the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as
22 herein defined.

23 39. The policies, acts and practices heretofore described were and are an unlawful
24 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the
25 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
26 record and provide legally required meal and rest periods, (c) failed to pay minimum wages,
27 (d) failed to pay overtime wages, (e) failed to reimburse employees for required expenses,
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1 and (f) failed to pay wages when due, all in violation of the applicable Labor Code sections
2 listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512,
3 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2750.3 *et. seq.*, 2802, California Code of
4 Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage
5 Order(s), and thereby gives rise to civil penalties as a result of such conduct.¹ PLAINTIFFS
6 hereby seeks recovery of only civil penalties as prescribed by the Labor Code Private
7 Attorney General Act of 2004 as the representative of the State of California for the illegal
8 conduct perpetrated on PLAINTIFFS and the AGGRIEVED EMPLOYEES.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
11 severally, as follows:

12 1. On behalf of the State of California and with respect to all AGGRIEVED
13 EMPLOYEES:

14 A) Recovery of civil penalties as prescribed by the Labor Code Private
15 Attorneys General Act of 2004; and,

16 B) An award of attorneys' fees and cost of suit, as allowable under the
17 law, including, but not limited to, pursuant to Labor Code §2699.

18 Dated: October 18, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

19
20 By: /s/ Nicholas De Blouw

21 Norman B. Blumenthal
22 Kyle R. Nordrehaug
23 Nicholas J. De Blouw

24 *Attorneys for Plaintiffs*

25
26
27 ¹Plaintiffs specifically exclude and/or do not allege any claims under California Labor
28 Code §558(a)(3).