

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

HILTON MANAGEMENT, LLC, a Delaware limited liability company;
and DOES 1 through 50, Inclusive;

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

SHASTA COLLINS, an individual, in her representative capacity on
behalf of the State of California and fellow Aggrieved Employees,

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CGC-21-590959

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (619) 599-8291

JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

DATE:
(Fecha) **04/21/2021**

Clerk, by _____, Deputy
(Secretario) **RONNIE OTERO** (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

[SEAL]



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ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA CGC-21-590959

IN AND FOR THE COUNTY OF SAN FRANCISCO

SHASTA COLLINS, an individual, in her
representative capacity on behalf of the State of
California and fellow Aggrieved Employees,

Plaintiffs,

vs.

HILTON MANAGEMENT, LLC, a Delaware
limited liability company; and DOES 1 through
50, Inclusive;

Defendants.

Case No. _____

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. VIOLATIONS OF THE PRIVATE
ATTORNEY GENERAL ACT AT
LABOR CODE SETIONS 2698 *ET SEQ.*

DEMAND FOR JURY TRIAL

1 Plaintiff SHASTA COLLINS (“PLAINTIFF”) an individual, in her representative capacity on
2 behalf of the herself, the State of California, and fellow current and former AGGRIEVED
3 EMPLOYEES, defined *supra*, against HILTON MANAGEMENT, LLC (“DEFENDANT”), alleges
4 on information and belief, except for her own acts and knowledge which are based on personal
5 knowledge, the following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this representative action pursuant to the Private Attorneys General
8 Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former
9 aggrieved employees of DEFENDANT for engaging in a pattern and practice of wage and hour
10 violations under the California Labor Code.

11 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT decreased
12 their employment-related costs by systematically violating California wage and hour laws.

13 3. DEFENDANT’s systematic pattern of wage and hour and IWC Wage Order violations
14 toward PLAINTIFF and other aggrieved employees in California include, *inter alia*:

- 15 a. Failure to provide compliant meal and rest periods;
- 16 b. Failure to allow employees to take duty-free, off-the-premises rest periods;
- 17 c. Failure to pay all minimum, regular and overtime wages;
- 18 d. Failure to maintain true and accurate records;
- 19 e. Failure to provide accurate itemized wage statements; and
- 20 f. Failure to timely pay wages due during, and upon termination of employment.

21 4. PLAINTIFF brings this representative action against DEFENDANT on behalf of herself
22 and all other aggrieved employees of DEFENDANT in California seeking all civil penalties and unpaid
23 wages permitted pursuant to California Labor Code § 2699, *et seq.*

24 5. PLAINTIFF reserves the right to name additional representatives throughout the State of
25 California.

26 ///

27 ///

THE PARTIES

6. Defendant HILTON MANAGEMENT, LLC (“DEFENDANT”) is a limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

7. DEFENDANT, owns and operate a hotels throughout the world, including hotels in California and including the Hilton San Francisco Union Square Hotel where PLAINTIFF worked.

8. PLAINTIFF was employed by DEFENDANT in California as a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from July 2019 to January of 2020. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANTS as a non-exempt employee paid on an hourly basis, entitled to minimum wage and overtime pay and to compliant meal and rest breaks.

9. PLAINTIFF brings this action in her representative capacity on behalf of the State of California and on behalf of all of DEFENDANT’s current and former non-exempt employees employed in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for DEFENDANT between December 7, 2019 and the present (“PAGA PERIOD”).

10. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code § 2699(c) because she was employed by DEFENDANT and suffered one or more of the alleged Labor Code violations committed by DEFENDANT.

11. PLAINTIFF and all other AGRIEVED EMPLOYEES are, and at all relevant times were, employees of DEFENDANT, within the meanings set forth in the California Labor Code and the applicable Industrial Welfare Commission Wage Order.

12. Each of the fictitiously named defendants participated in the acts alleged in this Complaint. The true names and capacities of the defendants named as DOES 1 THROUGH 50, inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint, setting forth the true names and capacities of these fictitiously named defendants when their true names are ascertained. PLAINTIFF is informed and believes, and on that basis alleges, that each of the fictitious defendants have participated in the acts alleged in this Complaint.

1 13. DEFENDANT, including DOES 1 THROUGH 50 (hereinafter collectively
2 “DEFENDANTS”), were PLAINTIFF’s employers or persons acting on behalf of PLAINTIFF’s
3 employer, within the meaning of California Labor Code § 558, who violated or caused to be violated,
4 a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days
5 of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties
6 for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

7 14. DEFENDANT was PLAINTIFF’s employer or persons acting on behalf of PLAINTIFF’s
8 employer either individually or as an officer, agent, or employee of another person, within the meaning
9 of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than
10 the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid
11 employee.

12 **JOINT EMPLOYER**

13 15. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to enforce
14 any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* § 2699(a).)

15 16. Section 558 of the California Labor Code provides that “any employer or other person
16 acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
17 provision regulating hours and days of work in any order of the Industrial Welfare Commissions shall
18 be subject to a civil penalty...” (*Lab. Code* § 558(a).);

19 17. Section 1197.1 of the Labor Code provides that “[a]ny employer or other person acting
20 either individually or as an officer, agent, or employee of another person, who pays or causes to be paid
21 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order
22 of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

23 18. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held that
24 a corporate employer’s owners, officers and directors, are subject to civil penalties for the employer’s
25 failure to pay appropriate wages to its employees, and, since liability under either 558 or 1197.1 does
26 not depend on a finding of an alter ego, no alter ego allegations or findings are necessary. *Atempa v.*
27 *Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v. Cjaders Food, Inc.* (2009
28 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203 Cal.App.4th 1112, 1145-1146.

1 19. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT, and each
2 of them, are subject to civil penalties for their failure to pay PLAINTIFF and the aggrieved employees
3 the appropriate wages as complained of herein and proximately caused the complaints, injuries, and
4 damages alleged herein.

5 20. At all relevant times, each Defendant, whether named or fictitious, was the agent,
6 employee or other person acting on behalf of each other Defendant, and, in participating in the acts
7 alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts
8 of the other.

9 21. Each Defendant, whether named or fictitious, exercised control over PLAINTIFF's
10 wages, working hours, and/or working conditions.

11 22. Each Defendant, whether named or fictitious, acted in all respects pertinent to this action
12 as the agent of the other DEFENDANT, carried out a joint scheme, business plan or policy, and the
13 acts of each Defendant are legally attributable to the other DEFENDANT.

14 **JURISDICTION AND VENUE**

15 23. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This Court
17 has jurisdiction over PLAINTIFF's claims for civil penalties under the Private Attorney General
18 Act of 2004, California Labor Code §2698, *et seq.*

19 24. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
20 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides in this County,
21 and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in
22 this County and/or conducts substantial business in this County, and (ii) committed the wrongful
23 conduct herein alleged in this County against PLAINTIFF and the AGGRIEVED EMPLOYEES.

24 **THE CONDUCT**

25 25. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
26 required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time worked, meaning
27 the time during which an employee is subject to the control of an employer, including all the time the
28 employee is suffered or permitted to work. From time to time, DEFENDANT required PLAINTIFF

1 and AGGRIEVED EMPLOYEES to work without paying them for all the time they were under
2 DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF to work while clocked
3 out during what was supposed to be PLAINTIFF'S off-duty meal break, as well as before her shift
4 started and after her shift ended. PLAINTIFF was often interrupted by work assignments during her
5 breaks. Indeed there were many days where PLAINTIFF did not even receive a partial lunch. As a
6 result, the PLAINTIFF and AGGRIEVED EMPLOYEES, from time to time, forfeited minimum wage
7 and overtime compensation by working without their time being accurately recorded and without
8 compensation at the applicable minimum wage and overtime rates. DEFENDANT'S uniform policy
9 and practice not to pay PLAINTIFF and AGGRIEVED EMPLOYEES for all time worked is
10 evidenced by DEFENDANT'S business records.

11 26. As a result of their rigorous work schedules, and because they often worked single-staffed
12 shifts, PLAINTIFF and AGGRIEVED EMPLOYEES were also from time to time unable to take off
13 duty meal breaks and were not fully relieved of duty for meal periods. PLAINTIFF and other
14 AGGRIEVED EMPLOYEES were required to perform work as ordered by DEFENDANT for more
15 than five (5) hours during a shift without receiving an off-duty meal break. Further, DEFENDANT
16 failed to provide PLAINTIFF and AGGRIEVED EMPLOYEES with a second off-duty meal period
17 each workday in which these employees were required by DEFENDANT to work ten (10) hours of
18 work. PLAINTIFF and the AGGRIEVED EMPLOYEES therefore forfeited meal breaks without
19 additional compensation and in accordance with DEFENDANT's strict corporate policy and practice

20 27. During the PAGA PERIOD, from time to time, PLAINTIFF and AGGRIEVED
21 EMPLOYEES were also required to work in excess of four (4) hours without being provided ten (10)
22 minute rest periods. Further, these employees were denied their first rest periods of at least ten (10)
23 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at
24 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second
25 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.
26 When they did have an opportunity to take their rest breaks, PLAINTIFF and the AGGRIEVED
27 EMPLOYEES were required to remain on the premises, on-duty and on-call while carrying a
28 communication device, and subject to DEFENDANT'S control in accordance with DEFENDANT'S

1 written policy. PLAINTIFF and AGGRIEVED EMPLOYEES were also not provided with one hour
2 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
3 AGGRIEVED EMPLOYEES were periodically denied their proper rest periods by DEFENDANT
4 and DEFENDANT'S managers.

5 28. Under California law, every employer shall pay to each employee, on the established
6 payday for the period involved, not less than the applicable minimum wage for all hours worked in
7 the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.
8 Hours worked is defined in the applicable Wage Order as "the time during which an employee is
9 subject to the control of an employer and includes all the time the employee is suffered or permitted
10 to work, whether or not required to do so.

11 29. In violation of the applicable sections of the California Labor Code and the requirements
12 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of company
13 policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and the
14 AGGRIEVED EMPLOYEES for all time worked. This uniform policy and practice of DEFENDANT
15 is intended to purposefully avoid the payment of the correct compensation as required by California
16 law which allowed DEFENDANT to illegally profit and gain an unfair advantage over competitors
17 who complied with the law. To the extent equitable tolling operates to toll claims by the AGGRIEVED
18 EMPLOYEES against DEFENDANT, the PAGA PERIOD should be adjusted accordingly.

19 30. From time to time, when PLAINTIFF and AGGRIEVED EMPLOYEES when they
20 worked during what was supposed to be their meal breaks or otherwise off the clock, DEFENDANT
21 also failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES with complete and accurate
22 wage statements which failed to show, among other things, the correct time worked, including, work
23 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the
24 gross wages paid for those periods during the pay period, and the correct penalty payments or missed
25 meal and rest periods in violation of California Labor Code Sections 226 and 226.2.

26 31. California Labor Code Section 226 requires an employer to furnish its employees an
27 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the
28 number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages

1 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
2 employee and only the last four digits of the employee's social security number or an employee
3 identification number other than a social security number, (8) the name and address of the legal entity
4 that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate by the employee.

6 32. Aside from the violations listed herein, DEFENDANT failed to issue to PLAINTIFF an
7 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a
8 result, from time to time DEFENDANT provided PLAINTIFF and the AGGRIEVED EMPLOYEES
9 with wage statements which violated Cal. Lab. Code § 226.

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

20 34. In the course of their employment, PLAINTIFF and AGGRIEVED EMPLOYEES as a
21 business expense, were required by DEFENDANT to use their own personal cellular phones as a result
22 of and in furtherance of their job duties as employees for DEFENDANT but were not reimbursed or
23 indemnified by DEFENDANT for the cost associated with the use of their personal cellular phones
24 for DEFENDANT'S benefit. Specifically, PLAINTIFF and AGGRIEVED EMPLOYEES were
25 required by DEFENDANT to use their personal cell phones to for work related issues. As a result, in
26 the course of their employment with DEFENDANT the PLAINTIFF and AGGRIEVED
27 EMPLOYEES incurred unreimbursed business expenses which included, but were not limited to, costs
28 related to the use of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

1 35. By reason of this uniform conduct applicable to PLAINTIFF and AGGRIEVED
2 EMPLOYEES, DEFENDANT committed acts of unfair competition in violation of the California
3 Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*(the “UCL”), by engaging in a
4 company-wide policy and procedure which failed to accurately calculate and record all missed meal
5 and rest periods by PLAINTIFF and AGGRIEVED EMPLOYEES, and failed to pay PLAINTIFF and
6 AGGRIEVED EMPLOYEES the correct overtime rate. The proper recording of these employees’
7 missed meal and rest breaks, and proper payment of minimum wages and overtime, is the
8 DEFENDANT’S burden. As a result of DEFENDANT’S intentional disregard of the obligation to meet
9 this burden, DEFENDANT failed to properly pay all required compensation for work performed by the
10 AGGRIEVED EMPLOYEES and violated the California Labor Code and regulations promulgated
11 thereunder as herein alleged.

12 36. Specifically as to PLAINTIFF’s pay, she was from time to time unable to take off duty
13 meal and rest breaks and was not fully relieved of duty for her rest and meal periods, and was required
14 to keep a communication device on while on those rest breaks. PLAINTIFF was required to perform
15 work as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
16 duty meal break. Further, DEFENDANT failed to provide PLAINTIFF with a second off-duty meal
17 period each workday in which she was required by DEFENDANT to work ten (10) hours of work.
18 When DEFENDANT provided PLAINTIFF with a rest break, they required PLAINTIFF to remain on
19 the premises, on-duty, and on-call carrying a communications device, for the rest break. PLAINTIFF
20 therefore forfeited meal and rest breaks without additional compensation and in accordance with
21 DEFENDANT’S strict corporate policy and practice. DEFENDANT also provided PLAINTIFF with
22 paystubs that failed to accurately display the information required by Cal. Lab. Code § 226(a). To date,
23 DEFENDANT has not fully paid PLAINTIFF all wages still owed to her or any penalty wages owed
24 to her under Cal. Lab. Code § 203. More specifically, PLAINTIFF was employed by DEFENDANT
25 until January of 2020. However, DEFENDANT continued to violate Cal. Lab. Code § 203 for at least
26 thirty (30) additional days because (a) DEFENDANT failed to pay PLAINTIFF all of the wages owed
27 to her for working off-the-clock during her meal breaks at the time of her termination, and continued
28 to fail to pay her those owed wages for a period of at least thirty (30) days, thereby continuously

1 violating Labor Code Section 203, and (b) DEFENDANT issued three checks to PLAINTIFF that were
2 voided. Thereafter, PLAINTIFF informed DEFENDANT of the voided checks, but DEFENDANT
3 failed to reissue new checks to PLAINTIFF. Thus, DEFENDANT continued to violate Cal. Lab. Code
4 § 203 for at least thirty (30) days following PLAINTIFF's last date of employment – at a minimum
5 through the end of February 2020. The amount in controversy for PLAINTIFF individually does not
6 exceed the sum or value of \$75,000.

7 **FIRST CAUSE OF ACTION**

8 **For Civil Penalties Pursuant to Private Attorneys General Act ("PAGA")**

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

10 **(By PLAINTIFF and AGGRIEVED EMPLOYEES and Against All DEFENDANTS)**

11 37. PLAINTIFF and the AGGRIEVED EMPLOYEES reallege and incorporate by this
12 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

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

22 39. PLAINTIFF brings this Representative Action on behalf of the State of California with
23 respect to herself and all other current and former AGGRIEVED EMPLOYEES employed by
24 DEFENDANT during the PAGA PERIOD.

25 40. At all relevant times, for the reasons described herein, and others, PLAINTIFF and the
26 AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANT within the meaning of
27 Labor Code Section 2699(c).
28

1 41. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like
2 PLAINTIFF, on behalf of herself and other current or former employees, to bring a civil action to
3 recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

4 42. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code
5 Section 2699.3. By certified letter, return receipt requested, dated December 7, 2020, PLAINTIFF
6 gave written notice to the Labor and Workforce Development Agency (“LWDA”) and to DEENDANT
7 of the specific provisions of the Labor Code alleged to have been violated, including the facts and
8 theories to support the alleged violations.

9 43. As of the date of this complaint, more than sixty-five (65) days after serving the LWDA
10 with notice of DEFENDANT’S violations, the LWDA has not provided any notice by certified mail of
11 its intent to investigate the DEFENDANT’S alleged violations as mandated by Labor Code Section
12 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A, PLAINTIFF may
13 commence and is authorized to pursue this cause of action.

14 44. To the extent that it applies, PLAINTIFF invokes the tolling permitted pursuant to the
15 California State Judicial Counsel amended Rule of Court, Emergency Rule Number 9, tolled the statute
16 of limitation and statutes of repose from April 6, 2020 to either (a) August 3, 2020 for statutes of
17 limitation and repose for civil causes of action that are 180 days or less, of (b) October 1, 2020 for
18 statutes of limitation and repose for civil causes of action that exceed 180 days.

19 45. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the AGGRIEVED
20 EMPLOYEES are entitled to civil penalties for DEFENDANTS’ violations of Labor Code Section 201,
21 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197,
22 1197.14, 1198, 1199, and 2802 in the following amounts:

23 a. For violation of Labor Code Sections 201, 202, 203, and 204, one
24 hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period
25 for the initial violation and two hundred dollars (\$200) for AGGIEVED
26 EMPLOYEE per pay period for each subsequent violation [penalty per
27 Labor Code Section 2699(f)(2)];

28 b. For violations of Labor Code Section 226(a), a civil penalty in the

1 amount of two hundred fifty dollars (\$250) for each AGGRIEVED
2 EMOPLOYEE for any initial violation and one thousand dollars for each
3 subsequent violation [penalty per Labor Code Section 226.3];

4 c. For violations of Labor Code Sections 204, a civil penalty in the
5 amount of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE
6 for any initial violation and two hundred dollars (\$200) for AGGIEVED
7 EMPLOYEE for each subsequent violation [penalty per Labor Code
8 Section 210];

9 d. For violations of Labor Code Sections 226.7, 510 and 512, a civil
10 penalty in the amount of fifty dollars (\$50) for each underpaid
11 AGGRIEVED EMPLOYEE for the initial violation and hundred dollars
12 (\$100) for each underpaid AGGIEVED EMPLOYEE for each subsequent
13 violation [penalty per Labor Code Section 558];

14 e. For violations of Labor Code Section 2269(a), a civil penalty in the
15 amount of two hundred fifty dollars (\$250) per AGGRIEVED EMPLOYEE
16 per violation in an initial citation and one thousand dollars (\$1,000) per
17 AGGRIEVED EMPLOYEE for each subsequent violation [penalty per
18 Labor Code Section 226.3];

19 f. For violations of Labor Code Section 1174(d), a civil penalty in the
20 amount of five hundred (\$500) dollars for per AGGRIEVED EMPLOYEE
21 [penalty per Labor Code Section 1174.5].

22 g. For violations of Labor Code Sections 1194, 1194.2, 1197, 1198 and
23 1199, a civil penalty in the amount of one hundred dollars (\$100) per
24 AGGRIEVED EMPLOYEE per pay period for the initial violation and two
25 hundred dollars fifty (\$250) per AGGIEVED EMPLOYEE per pay period
26 for each subsequent violation [penalty per Labor Code Section].

27 46. For all provisions of the Labor Code for which civil penalty is not specifically provided,
28 Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred dollars (\$100) for each

1 AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars (\$200) for
2 each AGGRIEVED EMPLOYEE per pay period for each subsequent violation. PLAINTIFF and the
3 AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney's fees and costs in
4 connection with their claims for civil penalties pursuant to Labor Code Section 2699(g)(1).

5 47. To the extent that any of the conduct and violations alleged herein did not affect
6 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected
7 other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519;
8 See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 ["PAGA allows
9 an "aggrieved employee"—a person affected by at least one Labor Code violation committed by an
10 employer—to pursue penalties for all the Labor Code violations committed by that employer."],
11 Emphasis added, reh'g denied (June 13, 2018).)

12 **PRAYER FOR RELIEF**

13 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT as follows:

14 (a) For reasonable attorney's fees and costs of suit to the extent permitted by law, including
15 pursuant to Labor Code § 2699, *et seq.*;

16 (b) For civil penalties to the extent permitted by law pursuant to the Labor Code under the
17 Private Attorneys General Act; and

18 (c) For such other relief as the Court deems just and proper.

19
20 Dated: April 9, 2021

Respectfully Submitted,
JCL LAW FIRM, APC

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22 By: 
23 Jean-Claude Lapuyade, Esq.
24 Attorneys for PLAINTIFF
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1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF demands a jury trial on all issues triable to a jury.

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4 Dated: April 9, 2021

Respectfully Submitted,
JCL LAW FIRM, APC

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6 By: 
7 Jean-Claude Lapuyade, Esq.
8 Attorneys for PLAINTIFF
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