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JOHN STANIS

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

04/28/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

CGC-25-624812

JOHN STANIS, on behalf of the State of
California and other aggrieved persons,

Plaintiff,

v.

SWING SUBSTITUTES, INC., a corporation;
SWING EDUCATION, INC., a corporation; and
DOES 1 through 10, inclusive,

Defendants.

Case No.:

**PAGA REPRESENTATIVE ACTION
COMPLAINT:**

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

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

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendant SWING SUBSTITUTES, INC.,
6 SWING EDUCATION, INC., and DOES 1 through 10 (SWING SUBSTITUTES, INC., SWING
7 EDUCATION, INC., and DOES 1 through 10 are collectively referred to as “Defendants”) for
8 civil penalties under the Private Attorneys General Act of 2004, California Labor Code §§ 2698,
9 *et seq.* (“PAGA”) stemming from Defendants’ failure to pay for all hours worked (minimum,
10 straight time, and overtime wages), failure to provide legally compliant meal periods and related
11 meal period premiums, failure to authorize and permit rest periods and related rest period
12 premiums, failure to pay all earned wages twice per month, failure to maintain accurate records of
13 hours worked and meal periods, failure to furnish accurate wage statements, and failure to
14 indemnify for necessary business expenditures.

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

25 3. All California employees during the relevant statutes of limitations who are or were
26 harmed by Defendants’ illegal practices are “Aggrieved Employees.” The Aggrieved Employees
27 worked for Defendants as hourly-paid or non-exempt employees within the applicable statutory
28 period.

4. Plaintiff brings this action against Defendants seeking only to recover penalties on behalf of all Aggrieved Employees that worked for Defendants, and on behalf of the State of California. Plaintiff does not seek to recover anything other than penalties as permitted by California Labor Code Section 2699 at this time. To the extent that statutory violations are mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages for those violations, but simply penalties as permitted by California Labor Code Section 2699, declaratory relief, and injunctive relief for himself, and all Aggrieved Employees as permitted by the PAGA.

5. Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including San Francisco County. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

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

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

THE PARTIES

A. Plaintiff

8. Plaintiff JOHN STANIS is a resident of San Francisco, California who worked for Defendants in San Francisco County, California as an hourly-paid, non-exempt employee from approximately October 2023 to approximately March 2024.

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1 **B. Defendants**

2 9. Plaintiff is informed and believes, and based upon that information and belief
3 alleges, that Defendant SWING SUBSTITUTES, INC. is and at all times herein mentioned, was:

4 (a) A business entity qualified to do business and actually conducting business
5 in numerous counties throughout the State of California, including in San
6 Francisco County; and,

7 (b) The former employer of Plaintiff and the current and/or former employer of
8 the Aggrieved Employees because Defendant SWING SUBSTITUTES,
9 INC. suffered and permitted Plaintiff and the Aggrieved Employees to work,
10 and/or controlled their wages, hours, or working conditions.

11 10. Plaintiff is informed and believes, and based upon that information and belief
12 alleges, that Defendant SWING EDUCATION, INC. is and at all times herein mentioned, was:

13 (a) A business entity qualified to do business and actually conducting business
14 in numerous counties throughout the State of California, including in San
15 Francisco County; and,

16 (b) The former employer of Plaintiff and the current and/or former employer of
17 the Aggrieved Employees because Defendant SWING EDUCATION, INC.
18 suffered and permitted Plaintiff and the Aggrieved Employees to work,
19 and/or controlled their wages, hours, or working conditions.

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

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

1 California.

2 13. Plaintiff is informed and believes and thereon alleges that at all relevant times each
3 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the
4 other employees and exercised control over their wages, hours, and working conditions. Plaintiff
5 is informed and believes and thereon alleges that, at all relevant times, each Defendant was the
6 principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary,
7 affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of
8 the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise
9 for profit, and bore such other relationships to some or all of the other Defendants so as to be liable
10 for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and
11 thereon alleges that each Defendant acted pursuant to and within the scope of the relationships
12 alleged above, that each Defendant knew or should have known about, and authorized, ratified,
13 adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

14 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

15 14. Plaintiff JOHN STANIS worked for Defendants in San Francisco County,
16 California as an hourly-paid, non-exempt employee from approximately October 2023 to
17 approximately March 2024. During Plaintiff's employment for Defendants, Defendants paid
18 Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendants typically
19 scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but
20 Plaintiff regularly worked more than eight hours in a workday and more than forty (40) hours in a
21 workweek.

22 15. Throughout Plaintiff's employment, Defendants committed numerous labor code
23 violations under state law. As discussed below, Plaintiff's experience working for Defendants was
24 typical and illustrative.

25 **A. Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and**
26 **Overtime Wages**

27 16. Under California law, an employer must pay for all hours worked by an employee.
28 "Hours worked" is the time during which an employee is subject to the control of an employer,

1 and includes all the time the employee is suffered or permitted to work, whether or not required to
2 do so.

3 17. In addition, Labor Code § 510 provides that employees in California shall not be
4 employed more than eight hours in any workday or forty (40) hours in a workweek unless they
5 receive additional compensation beyond their regular wages in amounts specified by law.

6 18. Labor Code §§ 1194 and 1198 also provide that employees in California shall not
7 be employed more than eight hours in any workday unless they receive additional compensation
8 beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states
9 that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

10 19. Throughout the statutory period, Defendants maintained a policy and practice of not
11 paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight
12 time, and overtime wages. Defendants required Plaintiff and the Aggrieved Employees to work
13 “off-the-clock,” uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees
14 to work through meal and continued to work after they had clocked out for the workday. Some of
15 this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked,
16 Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved
17 Employees worked.

18 **B. Failure to Provide Meal Periods**

19 20. Under California law, employers have an affirmative obligation to relieve
20 employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the
21 start of sixth hour of work in a workday, and to allow employees to take their second 30-minute,
22 duty-free meal period no later than the start of the eleventh hour of work in the workday. Further,
23 employees are entitled to be paid one hour of additional wages for each workday they were not
24 provided with all required meal period(s).

25 21. Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff
26 and the Aggrieved Employees with their legally mandated 30-minute, uninterrupted, and duty-free
27 meal periods. Defendants regularly, but not always, required Plaintiff and the Aggrieved
28 Employees to work in excess of five consecutive hours a day without providing a 30-minute,

1 uninterrupted, and duty-free meal period for every five hours of work, or without compensating
2 Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the
3 fifth hour of work or tenth hour of work. Instead, Defendants continued to assert control over
4 Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform
5 work tasks which could not be completed without working in lieu of taking mandatory meal
6 periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period.
7 Defendants also never informed Plaintiff of his right to, nor permitted him to take, a second meal
8 period when Plaintiff worked at least ten hours of work in a workday. Accordingly, Defendants'
9 policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in
10 compliance with California law.

11 22. Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of
12 additional wages for each workday he or she was not provided with all required meal period(s).
13 Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional
14 wages to which they were entitled for meal periods that were not provided.

15 **C. Failure to Authorize and Permit Rest Periods**

16 23. Employers are required by California law to authorize and permit breaks of ten
17 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
18 two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the
19 employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself
20 a violation of California's rest break laws.

21 24. Throughout the statutory period, Defendants have wrongfully failed to authorize
22 and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods.
23 Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four
24 consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute,
25 uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours),
26 or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not
27 authorized or permitted. Instead, Defendants continued to assert control over Plaintiff and the
28 Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which

1 could not be completed without working in lieu of taking mandatory rest periods, or by denying
2 Plaintiff and the Aggrieved Employees permission to take a rest period. Accordingly, Defendants'
3 policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take
4 rest periods in compliance with California law.

5 25. Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of
6 additional wages for each workday he or she was not authorized and permitted to take all required
7 rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees
8 the additional wages to which they were entitled for rest periods and that they were not authorized
9 and permitted to take.

10 **D. Failure to Pay All Earned Wages Twice Per Month**

11 26. Based on Defendants' failure to pay Plaintiff and the Aggrieved Employees for all
12 wages as discussed above, Defendants also violated Labor Code § 204.

13 27. Labor Code § 204 requires employers to pay employees all earned wages two times
14 per month. Throughout the statute of limitations period applicable to this cause of action,
15 employees were entitled to be paid twice a month at their regular rates, including all meal period
16 premium wages owed, rest period premium wages owed, and wages owed for overtime hours
17 worked. However, during all such times, Defendants systematically failed and refused to pay the
18 employees all wages due, and failed to pay those wages twice a month, in that employees were not
19 paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not
20 authorized and permitted by Defendants, and all wages for all hours worked. As a result,
21 Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the
22 Aggrieved Employees suffered damages in those amounts.

23 **E. Failure to Maintain Accurate Records of Hours Worked and Meal Periods**

24 28. Plaintiff seeks penalties under California Labor Code § 1174(d). Pursuant to
25 California Labor Code § 1174.5, any person, including any entity, employing labor who willfully
26 fails to maintain accurate and complete records required by California Labor Code § 1174 is subject
27 to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall
28 keep time records showing when the employee begins and ends each work period. Meal periods

1 and total hours worked daily shall also be recorded

2 29. Defendants, however, failed to maintain accurate records of hours worked and all
3 meal periods taken or missed by Plaintiff and the Aggrieved Employees.

4 30. Defendants' failure to provide and maintain records required by the California
5 Labor Code and applicable IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the
6 ability to know, understand and question the accuracy and frequency of meal periods, and the
7 accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the
8 Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which
9 resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the
10 Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use
11 and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in
12 seeking to compel Defendants to fully perform its obligation under state law, all to their respective
13 damage in amounts according to proof at trial. As a result of Defendants' knowing failure to
14 comply with the California Labor Code and applicable IWC Wage Orders, Plaintiff and the
15 Aggrieved Employees have also suffered an injury in that they were prevented from knowing,
16 understanding, and disputing the wage payments paid to them.

17 **F. Failure to Furnish Accurate Itemized Wage Statements**

18 31. Labor Code § 226(a) provides that every employer shall furnish each of his or her
19 employees an accurate itemized wage statement in writing showing nine pieces of information,
20 including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
21 rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
22 deductions, provided that all deductions made on written orders of the employee may be aggregated
23 and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
24 employee is paid, (7) the name of the employee and the last four digits of his or her social security
25 number or an employee identification number other than a social security number, (8) the name
26 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
27 during the pay period and the corresponding number of hours worked at each hourly rate by the
28 employee. An employee is presumed to suffer an injury if this information is missing. (Labor

Code § 226(e)(2)(B)(iii).)

32. The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Labor Code § 226(e)(1).)

33. Throughout the statutory period, Defendants failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

34. Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) dollars per employee.

G. Failure to Indemnify for Necessary Expenditures

35. Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

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1 **FIRST CAUSE OF ACTION**

2 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**
3 **2004, Cal. Lab. Code § 2698, et seq.)**

4 36. Plaintiff incorporates by reference and re-alleges all preceding paragraphs as though
5 fully set forth herein.

6 37. At all times herein mentioned, Defendants were subject to the Labor Code of the
7 State of California and the applicable IWC Orders.

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

15 39. Plaintiff has exhausted his administrative remedies pursuant to California Labor
16 Code § 2699.3. On February 21, 2025, he gave written notice by online filing to the Labor and
17 Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific
18 provisions of the Labor Code that Defendants have violated against Plaintiff and current and former
19 Aggrieved Employees, including the facts and theories to support the violations. Plaintiff also paid
20 the filing fee. Plaintiff’s PAGA case number is LWDA-CM-1081460-25.

21 40. The statute of limitations is tolled while a plaintiff exhausts his or her administrative
22 remedies with California’s LWDA prior to suit, which is required by the statute. (*See* Labor Code
23 § 2699.3(d).)

24 41. More than sixty-five (65) days has elapsed since Plaintiff provided notice, but the
25 LWDA has not indicated that it intends to investigate Defendants’ Labor Code violations discussed
26 in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties under Labor
27 Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint.
28 These penalties include, but are not limited to, penalties under California Labor Code §§ 210,

226.3, 1174.5, 1197.1, and 2699(f)(2).

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

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

PRAYER FOR RELIEF

Plaintiff, on behalf of all similarly aggrieved employees, pray for relief and judgment against Defendants, jointly and severally, as follows:

1. That the Court declare, adjudge and decree that Defendants violated the California Labor Code by failing to pay for all hours worked (minimum, straight time, and overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, failing to pay all earned wages twice per month, failing to maintain accurate records of hours worked and meal periods, failing to furnish accurate wage statements, and failing to indemnify for necessary business expenditures.

2. An award of civil penalties on behalf of himself and all similarly aggrieved employees pursuant to PAGA;

3. Pre-judgment and post-judgment interest at the maximum rate allowed;

4. Attorneys' fees and costs reasonably incurred;

5. Injunctive and declaratory relief to the extent allowed by PAGA; and,

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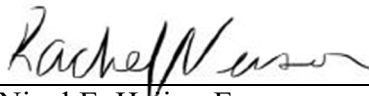
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1 6. Such other and further relief that the Court deems proper.

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3 Respectfully submitted,

4 Dated: April 28, 2025

WILSHIRE LAW FIRM

5
6 By: 
7 Nicol E. Hajjar, Esq.
8 Rachel J. Vinson, Esq.
9 *Attorneys for Plaintiff*