

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Timothy Dillon

MESSRELIAN LAW INC.

Harout Messrelian, Esq. (SB# 272020)

hm@messrelianlaw.com

500 N. Central Ave., Suite 840

Glendale, California 91203

Telephone: (818) 484-6531

Facsimile: (818) 956-1983

Attorneys for Plaintiff,

BRIANA MORAN, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

**FOR THE COUNTY OF LOS ANGELES
(UNLIMITED JURISDICTION)**

BRIANA MORAN,

Plaintiff,

vs.

CAPE ROBBIN INC.; SULING TIAN;
LIANZHAN CHEN; and DOES 1 to 25,
inclusive,

Defendants.

Case No.: **23STCV00652**

COMPLAINT FOR DAMAGES FOR:

**1) PRIVATE ATTORNEYS
GENERAL ACT ("PAGA");**

COMES NOW, Plaintiff, BRIANA MORAN (hereafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants CAPE ROBBIN INC.; SULING TIAN; LIANZHAN CHEN; and DOES 1 to 25, do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant CAPE ROBBIN INC. is and was a California corporation, doing business in Los Angeles County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendants SULING TIAN and LIANZHAN CHEN are residents of the County of Los Angeles, State of California, and the owners, principals, directors, and/or managing agents of CAPE ROBBIN INC. Defendants SULING TIAN and LIANZHAN CHEN are being included in this lawsuit pursuant to Labor Code Section 558.1 in that they were involved in the day-to-day operations of the business and controlled the wages, hours, and/or working conditions of Plaintiff and other similarly situated hourly, non-exempt employees. CAPE ROBBIN INC., SULING TIAN, and LIANZHAN CHAN are collectively referred to herein as “Defendant(s)” or “CAPE ROBBIN”.

5. The “Aggrieved Employees” are all current and former non-exempt or hourly paid employees who worked for Defendants at any of their California locations during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the

1 DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner
2 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
3 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
4 and capacities of these fictitiously named defendants. JBT AEROTECH CORPORATION and
5 DOES 1 to 25, inclusive, are collectively referred to herein as “JBT” or “Defendant(s)”.

6 7. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis
7 of that information and belief, alleges that at all times herein mentioned, each of the remaining
8 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
9 under the authority of their agency, employment, or representative capacity, with the consent of
10 his/her codefendants.

11 **GENERAL ALLEGATIONS**

12 8. Plaintiff initially started working for CAPE ROBBIN on or around January 2017
13 or 2018 in the shipping department. She was classified as an hourly, non-exempt employee and
14 earned \$18 per hour. Plaintiff’s employment ended on or around August 2022.

15 9. CAPE ROBBIN has committed numerous labor code violations against Plaintiff
16 and other similarly situated aggrieved employees.

17 10. CAPE ROBBIN has committed the below labor code violations against Plaintiff
18 and other hourly, non-exempt employees. In the case of Huff v. Securitas Sec. Servs. USA,
19 Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the
20 Defendant Employer, Securitas Security Services USA, Inc., an onsite security provider. After
21 about a year of employment, Huff resigned. Huff then filed suit against Securitas under PAGA.
22 In his claim, Huff specifically alleged violations to the Labor Code requiring immediate
23 payment of wages upon termination of employment and weekly payment of wages to
24 temporary employees. The trial court determined Huff was not a temporary employee, and
25 therefore, lacked standing to bring the claim. Thus, Securitas was granted a motion for
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1 summary judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the
2 grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue
3 for Labor Code violations that did not directly affect him. Securitas unsuccessfully argued that
4 the PAGA statute only allows the PAGA representative to sue for violations that the
5 representative has personally suffered. The PAGA statute states that an “aggrieved employee”
6 is able to file suit on behalf of themselves and others. The statute also states that an “aggrieved
7 employee” is “any person who was employed by the alleged violator and against whom one or
8 more of the alleged violations was committed.” Because at least one of the violations that Huff
9 had alleged had affected him personally, the Court of Appeal denied Securitas’ motion.
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11 11. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves
12 and other employees, it allows for suits broader than the specific violations the named
13 employee experienced. Therefore, even if the employee did not personally experience the
14 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is
15 Plaintiff’s position that Plaintiff can equivocally bring the following labor code violations on
16 behalf of all employees, including hourly non-exempt employees.
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19 12. CAPE ROBBIN did not provide Plaintiff and other aggrieved employees with
20 the minimum wages to which they were entitled for work performed “off the clock”, pursuant
21 to California Labor Code sections 1194, 1197 and 1197.1. This was so because Plaintiff and
22 others would routinely work “off the clock” in the sense that Plaintiff would work through her
23 lunch while “off the clock” and was not paid for that time worked. It was essentially a working
24 lunch in that Plaintiff would eat and work at the same time. If Plaintiff and others did not
25 respond to a phone call because they were on “lunch”, they would be reprimanded. Moreover,
26 the company initially did not have a formal timekeeping system that kept accurate track of all
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1 hours worked. Moreover, CAPE ROBBIN had a policy and practice of “time shaving” and
2 rounding down hours worked, which leads to employees such as Plaintiff not being paid for all
3 hours worked, including receiving the minimum wage. Furthermore, Plaintiff herself would be
4 contacted after hours and on off days or would be asked to work AFTER she had already
5 clocked out without being compensated. Management was unequivocally aware of the latter.
6 There were also occasions wherein Plaintiff would be asked to complete a task immediately
7 upon entering the facility without even clocking in. As such, CAPE ROBBIN violated Labor
8 Code § 1194 and 1194.2 because it failed to pay Plaintiff and other similarly situated aggrieved
9 employees California’s statutory minimum wage and wages for all hours worked.
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11 13. Due to the above “off the clock” and rounding violations as alluded to above,
12 CAPE ROBBIN also violated Labor Code §510 because it failed to pay Plaintiff and other
13 similarly situated aggrieved employees overtime, even though they worked more than 8 hours
14 per day, 12 hours per day, and/or 40 hours per week throughout their employment. Plaintiff and
15 other similarly situated aggrieved employees worked more than 8 hours per day, 12 hours per
16 day and/or 40 hours per week, however, they were not compensated for their overtime hours in
17 contravention of California law. In addition, any bonus and/or incentive payments were not
18 included in Plaintiff’s and others’ regular rate of pay for purposes of deciphering their correct
19 overtime rate of pay.
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21 14. CAPE ROBBIN violated Labor Code §§ 512 and 226.7 and the Industrial
22 Welfare Commission Wage order no. 4/7 because it failed to provide Plaintiff and other
23 similarly situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for
24 every five (5) hours of work throughout their employment, and Plaintiff did not validly waive
25 said meal periods. CAPE ROBBIN did not completely relieve Plaintiffs of all duties during
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1 said meal periods. CAPE ROBBIN did not pay to Plaintiff one additional hour of pay at
2 Plaintiff's regular rate of compensation for each workday that one or more statutory meal
3 periods was not provided. Plaintiff did not always receive her meal periods before the 5th hour
4 worked. Moreover, and as mentioned above, the normal course of action was for Plaintiff and
5 others to work through their lunch and to take calls and complete WHILE on their lunch
6 breaks. The issue is that Plaintiff and others were not relieved of their work duties during this
7 time. To the extent that the company deducted this time as an "off the clock" meal break, there
8 would also be minimum wage violations as alluded to above. Furthermore, any argument by
9 CAPE ROBBIN that the employees signed an "On Duty Meal Period Agreement" would not
10 hold water since the nature of their job did not prevent them from being relieved of all work
11 duties and the company could have hired "floaters" to relieve the different employees for their
12 statutory meal and rest breaks. Simply put, statutory, timely, uninterrupted meal periods was
13 simply not part of the company culture and were not enforced.

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16 15. Similarly, CAPE ROBBIN violated Labor Code § 226.7 and the Industrial
17 Welfare Commission Wage Order no. 4/7 because it failed to provide Plaintiff and other similarly
18 situated aggrieved employees 10-minute rest periods for every four hours of work, or majority
19 portion thereof, throughout their employment. CAPE ROBBIN did not completely relieve
20 Plaintiff of all duty during said rest periods. CAPE ROBBIN did not pay to Plaintiff one
21 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
22 more statutory rest periods was not provided. Plaintiff and others did not receive statutory rest
23 breaks. In fact, Plaintiff has never received a statutory, 10-minute rest break wherein she was
24 actually relieved of all duty during her employment tenure with CAPE ROBBIN. As such,
25 statutory, timely, uninterrupted rest periods was simply not part of the company culture.
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1 16. Furthermore, during the relevant time period and based on the above violations,
2 CAPE ROBBIN failed to pay Plaintiff and other similarly situated aggrieved employees all
3 wages due to them within any time period specified by California Labor Code section 204. CAPE
4 ROBBIN was also in violation of California Labor Code section 226(a) by failing to include
5 pertinent information on the wage statements, including but not limited to, all hours worked,
6 overtime hours worked, gross wages earned, premium pay for missed meal and rest breaks, all
7 deductions, net wages earned, the correct start and end of the pay period, the correct legal name
8 and address of the employer, the correct identifying information for the employee, and
9 reimbursement for business expenses, among others. As such, CAPE ROBBIN did not provide
10 Plaintiff and other similarly situated aggrieved employees with complete, accurate itemized wage
11 statements.
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14 17. CAPE ROBBIN violated Labor Code § 203 because it willfully failed to pay
15 Plaintiff and other similarly situated aggrieved employees their earned and due wages upon
16 separation of employment, either immediately upon involuntary termination, or within 72 hours
17 of resignation. These earned but unpaid wages include the unpaid minimum wages, overtime,
18 premium pay for missed meal and rest breaks, and business expense reimbursement, among
19 others.
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21 18. During the relevant time period, CAPE ROBBIN also failed to keep accurate and
22 complete payroll records showing the hours worked by Plaintiff and other similarly situated
23 aggrieved employees as well as the correct wages paid to Plaintiff and other aggrieved employees
24 pursuant to California Labor Code sections 1174(d).
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26 19. During the relevant time period, Plaintiff and other aggrieved employees incurred
27 necessary, business-related expenses and costs that were not reimbursed by CAPE ROBBIN.
28 These costs include, but are not limited to, use of personal cell phone for work purposes in

1 participating in the company's chat app for quicker access to communication. Additionally,
2 Plaintiff would purchase cleaning supplies for the workplace for which she was not reimbursed.
3 Moreover, Plaintiff would also utilize her car if something needed to be delivered, but was not
4 reimbursed for gas/mileage. Accordingly, CAPE ROBBIN was in violation of California Labor
5 Code sections 2800 and 2802.

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7 **FIRST (AND ONLY) CAUSE OF ACTION**

8 **PRIVATE ATTORNEYS GENERAL ACT**

9 **Representative Claim for PAGA penalties under California Labor Code sections 203, 204**
10 **and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174(d), 1194, 1197, 1197.1, 2800,**
11 **2802, 2698, 2699, and the applicable Industrial Welfare Commission Wage Order Nos. 4-**
12 **2001/7-2001**

13 **(Against All Named Defendants and all DOE Defendants)**

14 20. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 19, inclusive, of this Complaint as though fully set forth herein.

16 21. Pursuant to law, Plaintiff provided the required written notice to the California
17 Labor & Workforce Development Agency (LWDA) and Defendants of the specific violations of
18 the California Labor Code that Defendants and DOE defendants have violated and continue to
19 violate.

20 22. Pursuant to California Labor code section 2699.3, no response was received from
21 the LWDA within 65 days of the postmark date of the above-alleged letter.

22 23. Plaintiff therefore has exhausted all administrative remedies required of her under
23 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause
24 of action and pursue penalties in a representative action for Defendants' violations of the Labor
25 Code.

26 24. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
27 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
28 departments, divisions, commissions, boards, agencies, or employees for violation of the code
may, as an alternative, be recovered through a civil action brought by an aggrieved employee
on behalf of himself or herself and other current or former employees pursuant to the procedures

1 specified in California Labor Code section 2699.3.

2 25. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the
3 alleged violator and had one or more of the alleged violations committed against her, and therefore
4 is properly suited to represent the interests of all current and former non-exempt or hourly paid
5 employees who worked for Defendants at any of their California locations during the relevant
6 PAGA time period.

7 26. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
8 penalties under California Labor Code sections 2698 and 2699 because of Defendants’ violations
9 of numerous provisions of the California Labor Code as alleged in this Complaint.

10 27. Plaintiff therefore has exhausted all administrative remedies required of her under
11 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause
12 of action and pursue penalties in a representative action for Defendants’ violations of the Labor
13 Code.

14 28. California Labor Code section 2699 et seq. imposes penalties upon culpable
15 Defendants for violating the Labor Code.

16 29. California Labor Code section 558 establishes a civil penalty as follows: Any
17 employer or other person action on behalf of an employer who violates, or causes to be violated,
18 a section of this chapter or any provision regulating hours and days of work in any order of the
19 Industrial Welfare Commission (including the “Hours and Days of Work” section of the Wage
20 Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
21 underpaid employee for each pay period for which the employee was underpaid ...; (2) for each
22 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
23 period for which the employee was underpaid ...;

24 30. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
25 by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
26 seeking individual/victim specific relief or underpaid wages under this particular cause of action.

27 31. Specifically, Plaintiff seeks penalties under California Labor Code section 2699,
28 for the following:

Violations of California Labor Code sections 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174d, 1194, 1197, 1197.1, 2800, 2802, 2698, 2699 via 2698 and 2699, and any other Labor Codes and Wage Orders (including no. 4/7) violated on the facts alleged in this Complaint.

32. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of Plaintiff and other current and former Aggrieved Employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

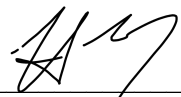
WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as follows:

1. For the imposition of civil penalties;
2. For maximum civil penalties available under Labor Code Section 2699 against Defendants in a manner and amount authorized by that statute, as described more particularly in the Complaint and representative PAGA claims;
3. For all costs and disbursements incurred in this suit;
4. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., the Labor Code generally, Code of Civil Procedure section 1021.5, and/or other applicable laws; and
5. For such other and further relief as this Court may deem proper.

Respectfully submitted,

MESSRELIAN LAW INC.

Dated: January 12, 2023

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff, BRIANA MORAN