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Attorneys for Plaintiff LUIS F. CANELA,
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STOCKTON**

LUIS F. CANELA, on behalf of himself and
current and former aggrieved employees

Plaintiff,

vs.

PITNEY BOWES, INC.; RANDSTAD US,
LLC; and DOES 1 to 100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2023-0002726

PAGA ACTION

**PLAINTIFF LUIS F. CANELA'S
COMPLAINT FOR:**

**1. CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff LUIS F. CANELA ("Plaintiff"), who alleges and complains
against Defendants PITNEY BOWES, INC.; RANDSTAD US, LLC; and DOES 1 to 100,
inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all
hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure

1 to authorize or permit all legally required and/or compliant meal periods or pay meal period
2 premium wages; statutory penalties for failure to timely pay earned wages during employment;
3 statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties
4 in the form of continuation wages for failure to timely pay employees all wages due upon
5 separation of employment. Plaintiff seeks on a representative basis, following notice to the Labor
6 and Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor
7 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
8 others aggrieved.

9 **II. JURISDICTION AND VENUE**

10 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
11 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
12 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
13 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
14 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
15 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
16 aggrieved California-based hourly non-exempt employees occurred in locations throughout
17 California, including but not limited to Stockton County, at 4733 Newcastle Road, Stockton,
18 California 95215.

19 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
20 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
21 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
22 tolled from April 6, 2020, until October 1, 2020.

23 **III. PARTIES**

24 4. Plaintiff brings this action as a representative of the Labor and Workforce
25 Development Agency on behalf of himself and other current and former employees subject to
26 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
27 filed include current, former and/or future employees of Defendants who work, worked, or will
28 work for Defendants as direct employees as well as temporary employees employed through temp

1 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
2 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
3 employed by Defendants in an hourly position at Defendants' location in Stockton from in or
4 around January 22, 2022, until on or about January 26, 2022.

5 5. Plaintiff is informed and believes and thereon alleges that Defendant PITNEY
6 BOWES, INC. is authorized to do business within the State of California and is doing business in
7 the State of California and/or that Defendants DOES 1-25 are, and at all times relevant hereto
8 were persons acting on behalf of Defendant PITNEY BOWES, INC. in the establishment of, or
9 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant PITNEY
10 BOWES, INC. operates in Stockton County and employed Plaintiff and aggrieved employees in
11 Stockton County, including but not limited to, at 4733 Newcastle Road, Stockton, California
12 95215.

13 6. Plaintiff is informed and believes and thereon alleges that Defendant RANDSTAD
14 US, LLC is authorized to do business within the State of California and is doing business in the
15 State of California and/or that Defendants DOES 26-50 are, and at all times relevant hereto were
16 persons acting on behalf of Defendant RANDSTAD US, LLC in the establishment of, or
17 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
18 RANDSTAD US, LLC operates in Stockton County and employed Plaintiff and aggrieved
19 employees in Stockton County, including but not limited to, at 4733 Newcastle Road, Stockton,
20 California 95215.

21 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
22 through 50 are corporations, or are other business entities or organizations of a nature unknown to
23 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
24 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
25 working conditions of employment of Plaintiff and aggrieved employees.

26 8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
27 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
28 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,

supervisor, independent contractor and/or employee of each defendant who violated or caused to be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of the Industrial Welfare Commission's wage orders regulating hours and days of work.

9. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff sues said defendants by said fictitious names, and will amend this complaint when the true names and capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named defendants is in some manner responsible for the events and allegations set forth in this complaint.

10. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION

CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS

GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.

(Against all Defendants by Plaintiff)

11. Plaintiff incorporates all paragraphs above as though fully set forth herein.

12. During the period beginning one (1) year preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and Sections 14 and 15 of the applicable Wage Orders.

13. Specifically, Defendants have committed the following violations of California Labor Code:

14. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either

1 directly or indirectly, performing services which inure to the benefit of the employer.

2 15. Labor Code sections 1194 and 1197 require an employer to compensate employees
3 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
4 Wage Orders.

5 16. In this case, Plaintiff and other current and former aggrieved California-based
6 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
7 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
8 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
9 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
10 not limited to:

11 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
12 non-exempt employees to line up to wait to undergo and undergo off-the-clock security checks
13 prior to being permitted to clock in for their start shift, after clocking-out for meal breaks, and
14 after clocking out for the end of their shifts; and

15 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
16 non-exempt employees to watch training videos while being off-the-clock.

17 (c) Plaintiff and other current and former aggrieved California-based hourly non-
18 exempt employees were not paid for this time resulting in Defendants’ failure to pay minimum
19 wage for all the hours Plaintiff and similarly situated employees worked.

20 17. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
21 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants’
22 control without paying wages for that time. This resulted in Plaintiff and other current and former
23 aggrieved California-based hourly non-exempt employees working time for which they were not
24 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
25 Wage Order.

26 18. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
27 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
28 employees. In California, an employer is required to pay hourly employees for all “hours worked,”

1 which includes all time that an employee is under control of the employer and all time the
2 employee is suffered and permitted to work. This includes the time an employee spends, either
3 directly or indirectly, performing services that inure to the benefit of the employer.'

4 19. Labor Code sections 510 and 1194 require an employer to compensate employees a
5 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
6 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

7 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
8 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
9 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
10 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
11 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
12 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
13 seventh day of a workweek shall be compensated at the rate of no less than twice the
14 regular rate of pay of an employee.

15 Labor Code section 510.

16 20. In this case, Defendants failed to pay Plaintiff and other current and former
17 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
18 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

19 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
20 non-exempt employees to line up to wait to undergo and undergo off-the-clock security checks
21 prior to being permitted to clock in for their start shift, after clocking-out for meal breaks, and
22 after clocking out for the end of their shifts; and

23 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
24 non-exempt employees to watch training videos while being off-the-clock.

25 (c) Plaintiff and other current and former aggrieved California-based hourly non-
26 exempt employees were not paid for this time resulting in Defendants' failure to pay minimum
27 wage for all the hours Plaintiff and similarly situated employees worked.

28 21. The foregoing policies, practices, and/or procedures resulted in time during each
workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
employees were under the control of Defendants but were not compensated. To the extent that the
foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved

1 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
2 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
3 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
4 sections 510 and 1194 and the applicable Wage Order.

5 **22. Failure to pay wages to hourly non-exempt employees for workdays that**
6 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
7 current and former aggrieved California-based hourly non-exempt employees regularly worked
8 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

9 23. California law requires an employer to authorize or permit an employee an
10 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
11 all duties and the employer relinquishes control over the employee's activities prior to the
12 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker*
13 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
14 employee for a work period of more than ten (10) hours per day without providing the employee
15 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
16 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
17 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
18 period is only permitted when: (1) the nature of the work prevents an employee from being
19 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

20 24. If an employer fails to provide an employee a meal period in accordance with the
21 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
22 for each workday that a legally required and compliant meal period was not provided. Labor Code
23 section 226.7; Wage Order 9 at §11.

24 25. In this case, Defendants failed to authorize or permit legally required and compliant
25 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
26 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
27 limited to:

28 (a) Discouraging off-premises meal breaks by requiring Plaintiff and other current and

1 former aggrieved California-based hourly non-exempt employees to be subjected to off-the-clock
2 security checks during meal breaks if they left Defendants' premises during their meal breaks; and
3 (b) Failing to provide duty-free meal breaks and/or 30-minute meal breaks by requiring
4 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to
5 be subjected to off-the-clock security checks during meal breaks if they left Defendants' premises
6 during their meal breaks.

7 26. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
8 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
9 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
10 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
11 employees did not receive legally required and compliant meal periods, in violation of Labor Code
12 section 226.7.

13 27. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
14 and other current and former aggrieved California-based hourly non-exempt employees not
15 receiving wages to compensate them for workdays during which Defendants did not provide them
16 with meal periods in compliance with California law.

17 28. **Failure to timely pay earned wages during employment:** In California, wages
18 must be paid at least twice during each calendar month on days designated in advance by the
19 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
20 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
21 16th and the 26th day of that month and wages earned between the 16th and the last day,
22 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
23 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
24 paid within seven (7) calendar days following the close of the payroll period in which wages were
25 earned. Labor Code section 204(d).

26 29. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
27 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
28 exempt employees' earned wages (including minimum wages, overtime wages, and/or meal period

premium wages), in violation of Labor Code section 204. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' their earned wages within the applicable time frames outlined in Labor Code section 204.

30. **Failure to provide complete and accurate wage statements:** Labor Code section 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

31. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages earned (including minimum wages, overtime wages, and/or meal period premium wages) rendered Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code section 226.

32. **Failure to pay employees all wages due at time of termination/resignation:** An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72) hours of resignation (Labor Code section 202).

33. As a derivative of Plaintiff's allegations above, because Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees

1 all their earned wages (including minimum wages, overtime wages, and/or meal period premium
2 wages), Defendants failed to pay those employees timely after each employee's termination and/or
3 resignation, in violation of Labor Code sections 201, 202, and 203.

4 34. Defendants' violations of Wage Order 9 constituted violations of Labor Code
5 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

6 35. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
7 employee, on behalf of himself or herself and other current or former employees, to bring a civil
8 action to recover civil penalties against all Defendants pursuant to the procedures specified in
9 Labor Code section 2699.3.

10 36. Plaintiff has complied with the procedures for bringing suit specified in Labor
11 Code section 2699.3. On January 12, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
12 and provided notice to Defendants by certified mail which provided notice of the specific
13 provisions of the Labor Code alleged to have been violated, including the facts and theories to
14 support the violations alleged.

15 37. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
16 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
17 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
18 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
19 to investigate Plaintiff's claims.

20 38. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
21 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510,
22 512, 1194, 1197 beginning one (1) year preceding Plaintiff sending the initial PAGA Claim Notice
23 to the LWDA to the present, in the following amounts:

24 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512,; one
25 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
26 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
27 violation [penalty amounts established by Labor Code section 2699(f)(2)].

28 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)

1 for each employee for each pay period for the initial violation, and for each subsequent violation,
2 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
3 established by Labor Code section 226.3].

4 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
5 employee for each pay period for the initial violation, and for each subsequent violation, one
6 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
7 established by Labor Code section 558] and any unpaid wages.

8 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
9 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
10 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
11 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

12 39. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
13 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER**
16 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

17 **ON THE FIRST CAUSE OF ACTION:**

18 1. That Defendants be found to have violated the provisions of the Labor Code and
19 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

20 2. For any and all legally applicable penalties during the relevant statute of limitations
21 subject to any permissible tolling, including but not limited to those recoverable under the
22 California Labor Code, including but not limited to section 2699(f);

23 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
24 under California Labor Code section 2699(g); and

25 4. For such and other further relief, in law and/or equity, as the Court deems just or
26 appropriate

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1 Dated: March 20, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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3 By: *Vincent C. Granberry*
4 Joseph Lavi, Esq.
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10 aggrieved employees
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