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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ALEXIS CLAVELL, an individual, and
on behalf of the State of California, as a
private attorney general,

Plaintiff,

vs.

DAILYLOOK, INC., a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 23STCV18106

COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
218, 221, 226(a), 226.7, 227.3, 246 *et*
seq., 510, 512, 558(a)(1)(2), 1194, 1197,
1197.1, 1198, 2802, California Code of
Regulations, Title 8, Section 11040,
Subdivision 5(A)-(B), California Code of
Regulations, Title 8, Section 11070(14)
(Failure to Provide Seating), and the
applicable Wage Order(s); and,
2. CONSTRUCTIVE DISCHARGE AND
OTHER ADVERSE EMPLOYMENT ACTIONS
IN VIOLATION OF PUBLIC POLICY.

DEMAND FOR A JURY TRIAL

1 Plaintiff Alexis Clavell (“PLAINTIFF”), an individual, and on behalf of the people of
2 the State of California and as an “aggrieved employee” acting as a private attorney general
3 under the Labor Code Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”), 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 action against Defendant Dailylook, Inc. (referred to
8 as “DEFENDANT”) seeking to recover PAGA civil penalties for herself, and on behalf of all
9 current and former aggrieved employees that worked for DEFENDANT. As to the First Cause
10 of Action PLAINTIFF does **not seek to recover anything other than penalties as permitted**
11 **by California Labor Code § 2699**. To the extent that statutory violations are mentioned for
12 wage violations, PLAINTIFF does not seek underlying general and/or special damages for those
13 violations, but simply the civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit an individual to bring an action on
15 behalf of herself and on behalf of others for PAGA penalties *only*.

16 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
17 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
18 is, penalties and any other relief the Court deems proper pursuant to the PAGA.

19 THE PARTIES

20 4. Dailylook, Inc. (“DEFENDANT”) is a corporation that at all relevant times
21 mentioned herein conducted and continues to conduct substantial business in California.

22 5. DEFENDANT is a styling platform designed to provide personal styling ideas.

23 6. PLAINTIFF was employed by DEFENDANT in California from April of 2019
24 to April of 2023. PLAINTIFF was at all times classified by DEFENDANT as a non-exempt
25 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
26 payment of minimum and overtime wages due for all time worked.

27 7. PLAINTIFF, and such persons that may be added from time to time who satisfy
28

1 the requirements and exhaust the administrative procedures under the Private Attorney General
2 Act, brings this Representative Action on behalf of the State of California with respect to herself
3 and all individuals who are or previously were employed by DEFENDANT in California,
4 including any employees staffed with DEFENDANT by a third party, and classified as non-
5 exempt employees ("AGGRIEVED EMPLOYEES") during the time period of March 22, 2022
6 until a date as determined by the Court (the "PAGA PERIOD").

7
8 8. PLAINTIFF, on behalf of herself and all AGGRIEVED EMPLOYEES
9 presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this
10 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for
11 DEFENDANT's violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218,
12 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198,
13 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B),
14 California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and
15 the applicable Wage Order(s). Based upon the foregoing, PLAINTIFF and all
16 AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code §
17 2699, *et seq.*

18 9. The true names and capacities, whether individual, corporate, subsidiary,
19 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
20 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
21 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
22 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when
23 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
24 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through
25 50, inclusive, are responsible in some manner for one or more of the events and happenings
26 that proximately caused the injuries and damages hereinafter alleged.

27 10. The agents, servants and/or employees of the Defendants and each of them
28 acting on behalf of the Defendants acted within the course and scope of his, her or its

1 authority as the agent, servant and/or employee of the Defendants, and personally
2 participated in the conduct alleged herein on behalf of the Defendants with respect to the
3 conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to
4 the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and
5 all the AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the
6 conduct of the Defendants' agents, servants and/or employees.

7 8 **THE CONDUCT**

9 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
10 was required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time
11 worked, meaning the time during which an employee is subject to the control of an
12 employer, including all the time the employee is suffered or permitted to work.
13 DEFENDANT requires PLAINTIFF and the AGGRIEVED EMPLOYEES to work without
14 paying them for all the time they are under DEFENDANT's control. Among other things,
15 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to
16 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by
17 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal
18 break. DEFENDANT, as a matter of established company policy and procedure,
19 administers a uniform practice of rounding the actual time worked and recorded by
20 PLAINTIFF and the AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT,
21 so that during the course of their employment, PLAINTIFF and the AGGRIEVED
22 EMPLOYEES are paid less than they would have been paid had they been paid for actual
23 recorded time rather than "rounded" time. Additionally, DEFENDANT engages in the
24 practice of requiring PLAINTIFF and the AGGRIEVED EMPLOYEES to perform work off
25 the clock in that DEFENDANT, as a condition of employment, required these employees to
26 submit to mandatory temperature checks and symptom questionnaires for COVID-19
27 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a
28 result, PLAINTIFF and the AGGRIEVED EMPLOYEES forfeit minimum wage, overtime

1 wage compensation, and off-duty meal breaks by working without their time being correctly
2 recorded and without compensation at the applicable rates. DEFENDANT's policy and
3 practice not to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all time worked, is
4 evidenced by DEFENDANT's business records.

5 12. State law provides that employees must be paid overtime and meal and rest
6 break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and the
7 AGGRIEVED EMPLOYEES are compensated at an hourly rate plus incentive pay that is
8 tied to specific elements of an employee's performance.

9 13. The second component of PLAINTIFF's and the AGGRIEVED
10 EMPLOYEES' compensation is DEFENDANT's non-discretionary incentive program that
11 paid PLAINTIFF and the AGGRIEVED EMPLOYEES incentive wages based on their
12 performance for DEFENDANT. The non-discretionary incentive program provided all
13 employees paid on an hourly basis with incentive compensation when the employees met the
14 various performance goals set by DEFENDANT. However, when calculating the regular
15 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and
16 the AGGRIEVED EMPLOYEES, DEFENDANT failed to include the incentive
17 compensation as part of the employees' "regular rate of pay" for purposes of calculating
18 overtime pay and meal and rest break premium pay. Management and supervisors described
19 the incentive program to potential and new employees as part of the compensation package.
20 As a matter of law, the incentive compensation received by PLAINTIFF and the
21 AGGRIEVED EMPLOYEES must be included in the "regular rate of pay." The failure to
22 do so has resulted in a underpayment of overtime compensation and meal and rest break
23 premiums to PLAINTIFF and the AGGRIEVED EMPLOYEES by DEFENDANT.

24 14. As a result of their rigorous work schedules, PLAINTIFF and the
25 AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute off
26 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF
27 and the AGGRIEVED EMPLOYEES were required from time to time to perform work as
28 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving

1 a meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
2 AGGRIEVED EMPLOYEES with a second off-duty meal period for some workdays in
3 which these employees were required by DEFENDANT to work ten (10) hours of work.
4 DEFENDANT also engaged in the practice of rounding the meal period times to avoid
5 paying penalties to PLAINTIFF and the AGGRIEVED EMPLOYEES. PLAINTIFF and the
6 AGGRIEVED EMPLOYEES therefore forfeit meal breaks without additional compensation
7 and in accordance with DEFENDANT's corporate policy and practice.

8 15. During the PAGA PERIOD, PLAINTIFF and the AGGRIEVED
9 EMPLOYEES were also required from time to time to work in excess of four (4) hours
10 without being provided ten (10) minute rest periods. Further, these employees were denied
11 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2)
12 to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
13 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
14 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
15 hours or more from time to time. PLAINTIFF and the AGGRIEVED EMPLOYEES were
16 also not provided with one hour wages in lieu thereof. Additionally, the applicable
17 California Wage Order requires employers to provide employees with off-duty rest periods,
18 which the California Supreme Court defined as time during which an employee is relieved
19 from all work related duties and free from employer control. In so doing, the Court held that
20 the requirement under California law that employers authorize and permit all employees to
21 take rest period means that employers must relieve employees of all duties and relinquish
22 control over how employees spend their time which includes control over the locations
23 where employees may take their rest period. Employers cannot impose controls that prohibit
24 an employee from taking a brief walk - five minutes out, five minutes back. Here,
25 DEFENDANT's policy restricted PLAINTIFF and the AGGRIEVED EMPLOYEES from
26 unconstrained walks and is unlawful based on DEFENDANT's rule which states
27 PLAINTIFF and the AGGRIEVED EMPLOYEES cannot leave the work premises during
28 their rest period.

1 16. During the PAGA PERIOD, DEFENDANT failed to accurately record and
2 pay PLAINTIFF and the AGGRIEVED EMPLOYEES for the actual amount of time these
3 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
4 DEFENDANT was required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for
5 all time worked, meaning the time during which an employee was subject to the control of
6 an employer, including all the time the employee was permitted or suffered to permit this
7 work. DEFENDANT required these employees to work off the clock without paying them
8 for all the time they were under DEFENDANT's control. As such, DEFENDANT knew or
9 should have known that PLAINTIFF and the AGGRIEVED EMPLOYEES were under
10 compensated for all time worked. As a result, PLAINTIFF and the AGGRIEVED
11 EMPLOYEES forfeited time worked by working without their time being accurately
12 recorded and without compensation at the applicable minimum wage and overtime wage
13 rates. To the extent that the time worked off the clock does not qualify for overtime
14 premium payment, DEFENDANT failed to pay minimum wages for the time worked off-
15 the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

16 17. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
17 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to
18 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226
19 provides that every employer shall furnish each of his or her employees with an accurate
20 itemized wage statement in writing showing, among other things, gross wages earned and all
21 applicable hourly rates in effect during the pay period and the corresponding amount of time
22 worked at each hourly rate. PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on
23 an hourly basis. As such, the wage statements should reflect all applicable hourly rates
24 during the pay period and the total hours worked, and the applicable pay period in which the
25 wages were earned pursuant to California Labor Code Section 226(a). The wage statements
26 DEFENDANT provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to
27 identify such information. More specifically, the wage statements failed to identify the
28 accurate total hours worked each pay period. When the hours shown on the wage statements

1 were added up, they did not equal the actual total hours worked during the pay period in
2 violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this
3 paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that
4 lists all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT
5 from time to time provided PLAINTIFF and the AGGRIEVED EMPLOYEES with wage
6 statements which violated Cal. Lab. Code § 226.

7 18. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
8 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
9 the wages are paid not more than seven (7) calendar days following the close of the payroll
10 period. Cal. Lab. Code § 210 provides:

11 in [I]n addition to, and entirely independent and apart from, any other penalty provided
12 this article, every person who fails to pay the wages of each employee as provided in
13 Sections. . . .204. . .shall be subject to a civil penalty as follows: (1) For any initial
14 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For
each subsequent violation, or any willful or intentional violation, two hundred dollars
(\$200) for each failure to pay each employee, plus 25 percent of the amount
unlawfully withheld.

15 19. DEFENDANT from time to time failed to pay PLAINTIFF and the
16 AGGRIEVED EMPLOYEES within seven (7) days of the close of the payroll period in
17 accordance with Cal. Lab. Code § 204(d), including but not limited to for the “Hourly”
18 regular wage payments.

19 20. DEFENDANT underpaid sick pay wages to PLAINTIFF and the
20 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay in
21 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt
22 employees earn non-discretionary remuneration, including, but not limited to, incentives,
23 shift differential pay, and bonuses. Rather than pay sick pay at the regular rate of pay,
24 DEFENDANT underpays sick pay to PLAINTIFF and the AGGRIEVED EMPLOYEES at
25 their base rates of pay.

26 21. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
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1 employees be calculated by dividing the employee's total wages, not including overtime
2 premium pay, by the employee's total hours worked in the full pay periods of the prior 90
3 days of employment.

4 22. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay
5 at the regular rate of pay. PLAINTIFF and the AGGRIEVED EMPLOYEES routinely
6 earned non-discretionary incentive wages which increased their regular rate of pay.
7 However, when sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and
8 the AGGRIEVED EMPLOYEES, as opposed to the correct, higher regular rate of pay, as
9 required under Cal. Lab. Code Section 246.

10 23. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF
11 and the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time
12 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and
13 believes and based thereon alleges that such failure to pay sick pay at regular rate was
14 willful, such that the AGGRIEVED EMPLOYEES whose employment has separated are
15 entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

16 24. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
17 to collect or receive from an employee any part of wages theretofore paid by said employer
18 to said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and
19 the AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to
20 PLAINTIFF and the AGGRIEVED EMPLOYEES, failed to disclose all aspects of the
21 deductions from compensation payable to PLAINTIFF and the AGGRIEVED
22 EMPLOYEES, and thereby failed to pay these employees all wages due at each applicable
23 pay period and upon termination.

24 25. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
25 PLAINTIFF and the AGGRIEVED EMPLOYEES for required business expenses incurred
26 by the PLAINTIFF and the AGGRIEVED EMPLOYEES in direct consequence of
27 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
28 2802, employers are required to indemnify employees for all expenses incurred in the course

1 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer
2 shall indemnify his or her employee for all necessary expenditures or losses incurred by the
3 employee in direct consequence of the discharge of his or her duties, or of his or her
4 obedience to the directions of the employer, even though unlawful, unless the employee, at
5 the time of obeying the directions, believed them to be unlawful."

6 26. In the course of their employment PLAINTIFF and the AGGRIEVED
7 EMPLOYEES as a business expense, were required by DEFENDANT to use their own
8 personal cellular phones as a result of and in furtherance of their job duties as employees for
9 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost
10 associated with the use of their personal cellular phones for DEFENDANT's benefit.
11 Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were required by
12 DEFENDANT to use their personal cellular phones. As a result, in the course of their
13 employment with DEFENDANT, PLAINTIFF and the AGGRIEVED EMPLOYEES
14 incurred unreimbursed business expenses which included, but were not limited to, costs
15 related to the use of their personal cellular phones all on behalf of and for the benefit of
16 DEFENDANT.

17 27. In violation of the applicable sections of the California Labor Code and the
18 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
19 DEFENDANT as a matter of company policy, practice and procedure, intentionally,
20 knowingly and systematically failed to provide PLAINTIFF and the other AGGRIEVED
21 EMPLOYEES suitable seating when the nature of these employees' work reasonably
22 permitted sitting.

23 28. DEFENDANT knew or should have known that PLAINTIFF and other
24 AGGRIEVED EMPLOYEES were entitled to suitable seating and/or were entitled to sit
25 when it did not interfere with the performance of their duties, and that DEFENDANT did
26 not provide suitable seating and/or did not allow them to sit when it did not interfere with
27 the performance of their duties.
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1 29. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
2 EMPLOYEES, DEFENDANT violated California Labor Code Section 1198 and Wage
3 Order 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties
4 on behalf of PLAINTIFF and other AGGRIEVED EMPLOYEES as provided herein.
5 Providing suitable seating is the DEFENDANT's burden. As a result of DEFENDANT's
6 intentional disregard of the obligation to meet this burden, DEFENDANT violated the
7 California Labor Code and regulations promulgated thereunder as herein alleged.

8 30. The employment of PLAINTIFF and some AGGRIEVED EMPLOYEES has
9 terminated and DEFENDANT has not tendered payment of all wages owed as required by
10 law. Additionally, at all times during the term of PLAINTIFF's employment with
11 DEFENDANT, PLAINTIFF and other AGGRIEVED EMPLOYEES earned and accrued
12 vested vacation and holiday time on the date of their termination pursuant to
13 DEFENDANT's uniform vacation policies and applicable California law. The amount of
14 vacation pay PLAINTIFF and the other AGGRIEVED EMPLOYEES earned and
15 accumulated is evidenced by DEFENDANT's business records. Additionally,
16 DEFENDANT also underpaid accrued vested vacation wages to PLAINTIFF and other
17 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay and
18 more specifically the final rate of pay that included all non-discretionary incentive
19 compensation. Rather than pay vacation wages at the regular rate of pay, DEFENDANT
20 underpaid vacation wages to PLAINTIFF and other AGGRIEVED EMPLOYEES at their
21 base rates of pay, instead of including all of PLAINTIFF's and other AGGRIEVED
22 EMPLOYEES' non-discretionary incentive compensation into the vacation wage payment
23 calculations. DEFENDANT failed to specify in DEFENDANT's written vacation policy the
24 rate at which PLAINTIFF and other AGGRIEVED EMPLOYEES would be paid vacation
25 upon leaving employment with DEFENDANT. As a result of DEFENDANT's unlawful
26 practice, policy and procedure to deny paying the PLAINTIFF and other AGGRIEVED
27 EMPLOYEES all of their vested vacation and holiday time, DEFENDANT failed to pay the
28 PLAINTIFF and other AGGRIEVED EMPLOYEES all vested vacation time as wages due

1 upon employment termination, in violation of the California Labor Code, Sections 201, 202,
2 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties to PLAINTIFF
3 and other AGGRIEVED EMPLOYEES at their base rates of pay, instead of including all of
4 PLAINTIFF's and other AGGRIEVED EMPLOYEES' non-discretionary compensation into
5 the waiting time penalty calculations. This failure by DEFENDANT is believed to be the
6 result of DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for
7 earned, accrued and vested vacation and holiday time, as well as the corresponding waiting
8 time penalties that were paid. DEFENDANT perpetrated this unlawful, unfair and deceptive
9 practice to the detriment of PLAINTIFF and other AGGRIEVED EMPLOYEES.

10 DEFENDANT's uniform practice and policy of failing to pay the AGGRIEVED
11 EMPLOYEES for all vested vacation and holiday time accumulated at employment
12 termination violated and continues to violate Section 227.3 of the California Labor Code.

13 31. All of the conduct and violations alleged herein occurred during the PAGA
14 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
15 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations
16 that affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.*
17 2018 AJDAR 12157 (Certified for Publication 12/19/18).

18 32. Furthermore, specifically as to PLAINTIFF, DEFENDANT failed to properly
19 pay PLAINTIFF under the California Labor Code. In late 2022 and continuing throughout
20 2023, PLAINTIFF reported to DEFENDANT and PLAINTIFF's Manager Jennifer Hirsch
21 about the unreasonable work demands placed on her and violations of the California Labor
22 Code, including but not limited to, DEFENDANT's failure to pay PLAINTIFF for all time
23 worked and failure to provide meal and rest breaks, and sick pay, but to no avail. On or
24 around March 22, 2023, PLAINTIFF through her counsel of record sent via certified mail to
25 DEFENDANT a copy of a class action complaint and PAGA Notice letter detailing the
26 violations of the California Labor Code. Continuing through out the rest of PLAINTIFF's
27 employment, PLAINTIFF engaged in protected activity by complaining to DEFENDANT of
28 DEFENDANT's failure to follow the California Labor Code as it pertained to paying

1 PLAINTIFF correctly. As a direct consequence of PLAINTIFF's complaints to
2 DEFENDANT, DEFENDANT retaliated against PLAINTIFF by denying PLAINTIFF
3 employment opportunities and promotions which resulted in lost wages and harassing
4 PLAINTIFF with unreasonable working demands. As a result, there is a causal link between
5 the protected activity and DEFENDANT's decision to retaliate against PLAINTIFF, which
6 is against public policy. Left with no other choice, In April of 2023, PLAINTIFF made the
7 decision to resign from her employment due to the hostile environment described above and
8 DEFENDANT's failure to take her complaints seriously.

9
10 **JURISDICTION AND VENUE**

11 33. This Court has jurisdiction over this Action pursuant to California Code of
12 Civil Procedure, Section 410.10.

13 34. Venue is proper in this Court pursuant to California Code of Civil Procedure,
14 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
15 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
16 facilities in this County and/or conducts substantial business in this County, and (ii)
17 committed the wrongful conduct herein alleged in this County against PLAINTIFF and other
18 AGGRIEVED EMPLOYEES.

19
20 **FIRST CAUSE OF ACTION**

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

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

23 **(By PLAINTIFF and Against All Defendants)**

24 35. PLAINTIFF realleges and incorporates by this reference, as though fully set
25 forth herein, the prior paragraphs of this Complaint.
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1 36. PAGA is a mechanism by which the State of California itself can enforce state
2 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
3 the state's labor law enforcement agencies. An action to recover civil penalties under
4 PAGA is fundamentally a law enforcement action designed to protect the public and not to
5 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
6 but to create a means of "deputizing" citizens as private attorneys general to enforce the
7 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
8 public interest to allow aggrieved employees, acting as private attorneys general to recover
9 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
10 claims cannot be subject to arbitration.

11 37. PLAINTIFF, and such persons that may be added from time to time who
12 satisfy the requirements and exhaust the administrative procedures under the Private
13 Attorney General Act, brings this Representative Action on behalf of the State of California
14 with respect to herself and all individuals who are or previously were employed by
15 DEFENDANT in California, including any employees staffed with DEFENDANT by a third
16 party, and classified as non-exempt employees ("AGGRIEVED EMPLOYEES") during the
17 time period of March 22, 2022 until a date as determined by the Court (the "PAGA
18 PERIOD").

19 38. On March 22, 2023, PLAINTIFF gave written notice by electronic mail to the
20 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
21 employer of the specific provisions of this code alleged to have been violated as required by
22 Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this reference
23 herein (*PAGA Notice only without draft complaint*). The statutory waiting period for
24 PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to
25 Section 2699.3, PLAINTIFF may now commence a representative civil action under PAGA
26 pursuant to Section 2699 as the proxy of the State of California with respect to all
27 AGGRIEVED EMPLOYEES as herein defined.
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39. The policies, acts and practices heretofore described were and are an unlawful business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay overtime wages and sick pay wages, (e) failed to reimburse employees for required expenses, (f) failed to provide wages when due, and (g) failed to provide suitable seating, all in violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and the AGGRIEVED EMPLOYEES.

SECOND CAUSE OF ACTION

Constructive Discharge and Other Adverse Employment Actions

(By PLAINTIFF Against All Defendants)

40. PLAINTIFF realleges and incorporates by reference, as though fully set forth herein, the prior paragraphs of this Complaint.

41. In late 2022 and continuing throughout 2023, PLAINTIFF reported to DEFENDANT and PLAINTIFF's Manager Jennifer Hirsch about the unreasonable work demands placed on her and violations of the California Labor Code, including but not limited to, DEFENDANT's failure to pay PLAINTIFF for all time worked and failure to

¹Plaintiff specifically excludes and/or does not allege any claims under California Labor Code §558(a)(3).

1 provide meal and rest breaks, and sick pay, but to no avail. On or around March 22, 2023,
2 PLAINTIFF through her counsel of record sent via certified mail to DEFENDANT a copy
3 of a class action complaint and PAGA Notice letter detailing the violations of the California
4 Labor Code. Continuing through out the rest of PLAINTIFF's employment, PLAINTIFF
5 engaged in protected activity by complaining to DEFENDANT of DEFENDANT's failure
6 to follow the California Labor Code as it pertained to paying PLAINTIFF correctly. As a
7 direct consequence of PLAINTIFF's complaints to DEFENDANT, DEFENDANT retaliated
8 against PLAINTIFF by denying PLAINTIFF employment opportunities and promotions
9 which resulted in lost wages and harassing PLAINTIFF with unreasonable working
10 demands. As a result, there is a causal link between the protected activity and
11 DEFENDANT's decision to retaliate against PLAINTIFF, which is against public policy.
12 Left with no other choice, In April of 2023, PLAINTIFF made the decision to resign from
13 her employment due to the hostile environment described above and DEFENDANT's failure
14 to take her complaints seriously

15 42. Subsequent to PLAINTIFF's participation in protective activity by
16 complaining to PLAINTIFF's managers about the unlawful employment practices,
17 DEFENDANT subjected PLAINTIFF to adverse employment actions by retaliating against
18 PLAINTIFF. Specifically, after PLAINTIFF complained to her supervisor(s) of
19 DEFENDANT's unlawful employment practices in February and March of 2023,
20 PLAINTIFF's working environment became unbearable and impossible to return to.
21 PLAINTIFF's managers continuously harassed her by giving her unreasonable working
22 demands. During this time, PLAINTIFF was plagued with ongoing work pressures,
23 obligations, and mistreatment by her supervisors, including but not limited to, belittling and
24 making false accusations about PLAINTIFF's performance. As a result, there is a causal link
25 between the protected activity and DEFENDANT's decision to retaliate against
26 PLAINTIFF, which is against public policy. As a direct consequence of PLAINTIFF's
27 complaints to DEFENDANT, DEFENDANT retaliated against PLAINTIFF by taking
28 adverse employment actions described herein.

1 43. Left with no other choice, in April of 2023, PLAINTIFF made the decision to
2 resign from her employment due to the hostile environment described above and
3 DEFENDANT's failure to take her complaints seriously.

4 44. PLAINTIFF raised complaints of illegality while PLAINTIFF worked for
5 DEFENDANT and was believed to be willing to raise complaints, and DEFENDANT
6 retaliated against PLAINTIFF by taking adverse employment actions against PLAINTIFF

7 45. As a proximate result of DEFENDANT'S willful, knowing, and intentional,
8 conduct, PLAINTIFF has suffered and continues to suffer humiliation, emotional distress,
9 and mental and physical pain and anguish, all to PLAINTIFF's damage in a sum according
10 to proof.

11 46. As a result of DEFENDANT'S adverse employment actions against
12 PLAINTIFF, PLAINTIFF has suffered general and special damages in sums according to
13 proof.

14 47. DEFENDANT's misconduct was committed intentionally, in a malicious,
15 oppressive manner, and fraudulent manner entitling PLAINTIFF to punitive damages.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
18 severally, as follows:

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

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

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

25 2. On behalf of PLAINTIFF for the Second cause of action:

26 A) Compensatory damages, according to proof at trial, but in excess of \$25,000.

27 B) Special and General damages according to proof;
28

- 1 C) Statutory damages, penalties and attorney's fees;
2 D) For punitive damages in an amount necessary to make an example of and to
3 punish DEFENDANT and deter DEFENDANT from engaging in future
4 similar conduct;
5 E) For loss of earnings (both past and future); and,
6 F) For interest at the legal rate in an amount according to proof.

7 Dated: July 31, 2023 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
8 LLP

9
10 By: /s/ Nicholas De Blouw
11 Norman B. Blumenthal
12 Kyle R. Nordrehaug
13 Nicholas J. De Blouw
14 *Attorneys for Plaintiff*
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DEMAND FOR A JURY TRIAL

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

Dated: July 31, 2023 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas De Blouw
Norman B. Blumenthal
Nicholas J. De Blouw

Attorneys for Plaintiff

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EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS EXT:

1004

March 22, 2023

CA2853

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Dailylook, Inc.
Certified Mail #702233300000181863883
BRIAN REE
2445 E 12TH ST
UNIT #B
LOS ANGELES, CA 90021

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Dailylook, Inc. in California, including any employees staffed with Dailylook, Inc. by a third party, and classified as non-exempt employees during the time period of March 22, 2022 until a date as determined by the Court. Our offices represent Plaintiff Alexis Clavell (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Dailylook, Inc. (“Defendant”). Plaintiff has been employed by Defendant in California since April of 2019. Plaintiff has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right

to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.