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10 ALICIA ALVAREZ

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO**

13 ALICIA ALVAREZ, an individual, for the real
party in interest, the State of California,

14 Plaintiff,

15 vs.

16 CRA MSO LLC; and DOES 1 through 50,
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18 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

05/17/2023 at 11:20:20 AM

Clerk of the Superior Court
By Sophia Felix, Deputy Clerk

Case No. 37-2023-00021295-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiff ALICIA ALVAREZ (“Plaintiff”), in her capacity as the State of California’s
2 designated proxy under the Private Attorneys General Act, and on behalf of other current and former
3 California employees alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the Private Attorneys General Act (“PAGA”), incorporated in Labor Code
6 sections 2698, 2699 *et seq.*, Plaintiff brings this representative action against Defendants CRA MSO
7 LLC (“CRA”) and DOES 1 through 50 (all defendants are hereinafter collectively referred to as
8 “Defendants”) for wage and hour violations of the California Labor Code and the applicable Industrial
9 Welfare Commission Wage Order (the “IWC Wage Order”).

10 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
11 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
12 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
13 for violation of the code may, as an alternative, be recovered through a civil action brought by an
14 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
15 to the procedures specified in Labor Code section 2699.3.

16 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
17 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

18 **JURISDICTION AND VENUE**

19 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
20 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
21 because Plaintiff alleges claims arising under California law.

22 5. This Court has jurisdiction over Defendants because each is believed to be an
23 association, corporation, business entity, or individual that conducts substantial business in the State
24 of California, County of San Diego.

25 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

26 7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the
27 Superior Court of California for the County of San Diego because this is where the wrongful
28 misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Plaintiff is an “aggrieved employee” because she was employed by Defendants and had one or more of the alleged violations committed against her, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the current and former employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

10. Plaintiff worked for Defendants during which time she was paid hourly and was considered non-exempt.

11. Defendants are doing business throughout the state of California.

12. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

13. Plaintiff is informed and believes, and based thereon allege, that at all times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other Defendant.

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1 15. At all material times, Defendants were and/or are employers or persons acting on
2 behalf of employers, under California law, the IWC Wage Order, and Labor Code sections 558 and
3 558.1 and thus are jointly and severally liable for the violations alleged herein and any amounts
4 awarded and/or recoverable as a result of this action.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 16. On March 13, 2023, Plaintiff, via counsel, sent the statutorily required notice to the
7 LWDA (“PAGA Notice”), indicating that Plaintiff intends to pursue claims against Defendants for
8 violations of the Labor Code.

9 17. On March 13, 2023, Plaintiff, via counsel, sent a copy of the PAGA Notice to
10 Defendant CRA.

11 18. The statutory period expired since Plaintiff sent the PAGA Notice to the LWDA and
12 LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable
13 penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A). Thus,
14 Plaintiff has exhausted the administrative requirements under the PAGA.

15 **PAGA REPRESENTATIVE ACTION CLAIMS**

16 19. On information and belief, current and former employees of Defendants were subject
17 to wage and hour violations by Defendants, specifically by Defendants’ violations of Labor Code
18 sections 227.3, 512, 226.7, 510, 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(9), 226(b), 226(c), 201, 202,
19 203, 204, 432, 1198, 1198.5, 2698, and 2699 et seq.

20 20. California law provides that an aggrieved employee may file a representative action
21 under the PAGA against an employer for violations of the Labor Code and Wage Order.

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1 **FIRST CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
3 **Section 227.3 against all Defendants)**

4 21. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 22. Under Labor Code section 227.3, “whenever a contract of employment or employer
7 policy provides for paid vacations, and an employee is terminated without having taken off his vested
8 vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with
9 such contract of employment or employer policy respecting eligibility or time served [...].”

10 23. Defendants violated Labor Code section 227.3. Upon information and belief,
11 Defendant would provide its employees with an accrual rate less than what there were legally entitled
12 to. As a result, (i) employees received less vacation hours than they were legally entitled to and (ii)
13 employees did not receive all of their vested vacation hours upon cessation from employment.

14 24. PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor
15 Code section 227.3.

16 25. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
17 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
18 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
19 all Labor Code provisions for which a civil penalty is not specifically provided.

20 26. Plaintiff is seeking civil penalties against Defendants under Labor Code section
21 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
22 amount to be shown according to proof.

23 27. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute,
24 Plaintiff seeks to recover reasonable attorneys’ fees, costs, and filing fees paid to the LWDA in an
25 amount to be shown according to proof.

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1 **SECOND CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Sections 512, 226.7 and the IWC Wage Order against all Defendants)**

4 28. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 29. Under Labor Code section 512 and the IWC Wage Order, an employer must provide a
7 meal period of at least thirty minutes if the employee works more than five hours. California Labor
8 Code section 512 “requires a first meal period no later than the end of an employee’s fifth hour of
9 work [...]” (*Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

10 30. Labor Code section 226.7 prohibits an employer from requiring an employee to work
11 during a meal period and provides that an employee must be paid a wage for doing so.

12 31. Under Labor Code section 226.7(c), if an employer fails to provide an employee with
13 a proper meal, the employer shall pay the employee one hour of pay at the employee’s regular rate of
14 compensation for each workday that the meal period is not provided.

15 32. Upon information and belief, during all times relevant to this action, Defendants failed
16 to provide their employees with compliant meal periods in violation of Labor Code sections 512,
17 226.7, and the IWC Wage Order.

18 33. At minimum, employees should have been paid a meal period premium for missed,
19 delayed, or shortened meal periods, which, upon information and belief, Defendants failed to pay.

20 34. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
21 Labor Code sections 512, 226.7 and the IWC Wage Order.

22 35. Labor Code section 558 imposes upon Defendants, and each of them, penalties of one
23 hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and two hundred
24 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

25 36. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
26 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
27 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
28 all Labor Code provisions for which a civil penalty is not specifically provided.

37. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

38. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRD CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226.7 and the IWC Wage Order against all Defendants)**

39. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

40. Rest periods under California labor law are required for non-exempt employees who work three and a half (3 1/2) or more hours in a day. Employees are entitled to ten (10) minutes of rest period for each four (4) hours, or a substantial fraction thereof, that they work in a day.

41. Labor Code section 226.7 prohibits an employer to require an employee to work during a rest period and provides that an employee must be paid a wage for doing so.

42. Upon information and belief, during all times relevant to this action, Defendants failed to provide their employees with proper rest periods in violation of Labor Code section 226.7 the IWC Wage Order. By way of example, employees would regularly work shifts of three and a half hours or more but were not relieved to take a 10-minute rest period.

43. Under Labor Code section 226.7(c), if an employer fails to provide an employee with a proper rest period, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

44. At minimum, employees should have been paid a rest period premium for missed, delayed, or shortened rest periods, which, upon information and belief, Defendants failed to pay. As such, Defendants violated Labor Code section 226.7(c).

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45. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code section 226.7 and the IWC Wage Order.

46. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

47. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

48. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 510, 1198 and IWC Wage Order against all Defendants)**

49. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

50. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order.)

51. Upon information and belief, Defendants failed to properly provide its employees with overtime pay for hours worked in excess of eight hours in a workday and/or hours worked in excess of 40 hours in one workweek.

52. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 510, 1198, and the IWC Wage Order.

53. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

54. Pursuant to Labor Code section 558, any employer or other person acting on behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them, penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

55. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

56. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(1) against all Defendants)**

57. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

58. Labor Code section 226(a)(1) requires that wage statements that an employer issues to its employees accurately state the gross wages earned.

59. Defendants failed to accurately state the proper gross on the wage statements in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to their employees failed to include the accurate amount of gross wages because they failed to include the proper amount of wages, including, but not limited to, vacation wages, meal/rest premium wages, and overtime wages.

60. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

61. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

62. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

63. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

64. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SIXTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(2) against all Defendants)**

65. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

66. Labor Code section 226(a)(2) requires that wage statements that an employer issues to its employees accurately state the total hours worked.

67. Defendants failed to state and/or failed to accurately state the total hours worked in violation of Labor Code section 226(a)(2).

68. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(2).

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69. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

70. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

71. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

72. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

73. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

74. Labor Code section 226(a)(5) requires that wage statements that an employer issues to its employees accurately state the net wages earned.

75. Defendants failed to accurately state the proper net on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued to their employees failed to include the accurate amount of net wages because they failed to include the proper amount of wages, including, but not limited to, vacation wages, meal/rest premium wages, and overtime wages.

76. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(5).

77. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

79. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

81. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

83. Defendants failed to provide the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of one example, the rates/hours for vacation pay, meal/rest premiums, and overtime are inaccurately itemized.

85. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

86. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

87. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

88. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

NINTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a) against all Defendants)**

89. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

90. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage statement provided to an employee or a computer-generated record that accurately shows all of the information required under 226(a)(1) through (a)(9).

91. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the records kept do not include the accurate gross and net wages, total hours worked, and applicable hourly rates and corresponding hours worked.

92. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a).

93. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

94. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

95. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

96. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 204 against all Defendants)**

97. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

98. Labor Code section 204 imposes an obligation of timely payment of wages upon California employers.

99. Defendants violated Labor Code section 204 because they failed to timely pay their employees all earned wages during an applicable pay period. By way of one example, Defendants failed to pay all earned meal/rest premium wages, overtime wages, and/or vacation wages in a timely manner as required under Labor Code section 204.

100. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 204.

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101. Labor Code section 204 imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

102. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

103. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 210, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

104. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

ELEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 201, 202, and 203 against all Defendants)**

105. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

106. Under Labor Code section 201, if an employee is discharged by his/her employer, the wages earned and unpaid at the time of discharge are due and payable immediately.

107. Under Labor Code section 202, if on the other hand, “an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

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108. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ...”

109. Upon information and belief, employees did not receive all wages upon termination or separation of employment. By way of one example, employees were owed vacation wages, meal/rest premium wages, and overtime wages. To this date, Defendants have not paid all wages upon termination or separation of employment.

110. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 201, 202, and 203.

111. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

112. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

113. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TWELFTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code
Sections 226(b), 226(c), 1198.5, and 432 against all Defendants)**

114. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

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1 115. Labor Code section 226(b) requires, in pertinent part, that “An employer [...] shall
2 afford current and former employees the right to inspect or copy *records pertaining to their*
3 *employment*, upon reasonable request to the employer.” (Emphasis added.)

4 116. Labor Code section 226(c) requires, in pertinent part, that “An employer who receives
5 a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
6 or former employee shall comply with the request as soon as practicable, but no later than 21 calendar
7 days from the date of the request.”

8 117. Labor Code section 432 requires employers doing business in the State of California
9 to provide current and former employees copies of all written instruments they sign upon request.

10 118. Labor Code section 1198.5(b)(1) provides, in pertinent part: “The employer shall make
11 the contents of those personnel records available for inspection to the current or former employee, or
12 his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar
13 days from the date the employer receives a written request.”

14 119. On December 14, 2022, Plaintiff, through counsel, requested copies of her payroll and
15 personnel records from Defendants, including but not limited to, her itemized wage statements and
16 timesheets. While Defendants produced some records, it failed to produce other records, such as, for
17 example, time records, applicable policies, and any applicable employee handbooks.

18 120. On January 6, 2023, Plaintiff, through counsel, emailed defense counsel asking for
19 time records and applicable policies. On January 9, 2023, defense counsel responded, via email, that
20 Defendants are “not required to, and will not be, producing Ms. Alvarez’s time records or any
21 company policies at this time.”

22 121. Labor Code section 226 provides that an employer “shall afford current and former
23 employees the right to inspect or copy *records pertaining to their employment*.”

24 122. Labor Code section 1198.5 provides that every current and former employee has the
25 right to receive a copy of personnel records that the “employer maintains relating to the employee’s
26 performance or to any grievance concerning the employee.”

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1 123. Upon information and belief, Defendants have a policy and practice whereby they
2 refuse to provide all required payroll and personnel records to employees who request them, including,
3 but not limited to, time records, handbooks, policies, documents with the employee's signature, etc.

4 124. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
5 Labor Code sections 226(b), 226(c), 432, 1198.5.

6 125. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
7 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
8 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
9 all Labor Code provisions for which a civil penalty is not specifically provided.

10 126. Plaintiff is seeking civil penalties against Defendants under the PAGA, including
11 Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties
12 under the PAGA in an amount to be shown according to proof.

13 127. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
14 attorneys' fees, costs, filing fees paid to the LWDA and civil penalties in an amount to be shown
15 according to proof.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

- 18 1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
- 19 2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant
20 to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
- 21 3. Post-judgment interest as provided by law; and
- 22 4. Such other and further relief that the Court may deem just and proper.

23 Dated: May 17, 2023

MASHIRI LAW FIRM, APC

24 By: 
25 Alex Asil Mashiri
26 Attorney for Plaintiff
27 Alicia Alvarez
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