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Attorneys for Plaintiff, **AMI BERRIOS,**
as an aggrieved employee, and on behalf of all other
aggrieved employees

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County of San Diego
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Clerk of the Superior Court
By J. Walters ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

AMI BERRIOS, on behalf of all similarly situated individuals,

Plaintiff,

v.

SSP AMERICA SAN, LLC a California stock corporation;
SSP AMERICA FAT, LLC a Delaware stock corporation;
SSP AMERICA OAK, LLC a Delaware stock corporation;
SSP AMERICA ONT, LLC a Delaware stock corporation;
SSP AMERICA SAN T1, LLC a Delaware stock corporation;
SSP AMERICA SFO, LLC a Delaware stock corporation;
SSP AMERICA SJC, LLC a Delaware stock corporation;
SSP AMERICA SMF, LLC a California stock corporation;
SSP AMERICA STS, LLC a Delaware stock corporation;
SSP AMERICA, INC., a California stock corporation;
and **DOES 1-20**, inclusive;

Defendants.

CASE NO. 26CU001322C

REPRESENTATIVE COMPLAINT FOR:

1) **PAGA Penalties (Labor Code §§ 2698, *et seq.*)**

Plaintiff AMI BERRIOS, on behalf of the State of California, solely in their representative capacity as a private attorney general under the Private Attorney General Act of 2004, Labor Code § 2699, *et seq*. ("PAGA"), hereby brings this action on behalf of all "aggrieved employees" and alleges as follows, by and through her counsel of record:

PAGA ONLY ACTION

1. PAGA authorizes "an aggrieved employee, acting as a proxy or agent of the state Labor and Workforce Development Agency, to bring a civil action against an employer on behalf of himself or herself and other current or former employees to recover civil penalties for Labor Code violations they have sustained." *Adolph v. Uber Techs.*, 14 Cal.5th 1104, 1113 (Cal. 2023).

2. "PAGA is designed primarily to benefit the general public, not the party bringing the action." *Id*., at 1117. "A PAGA claim for civil penalties is fundamentally a law enforcement action. The government entity on whose behalf the plaintiff files suit is the real party in interest." *Id*. PAGA's default civil penalties are thus calculated to punish the employer' for wrongdoing and to deter violations rather than "compensate employees for actual losses incurred." *Id*.

3. Under the authority expressed in *Adolph* and *Balderas v. Fresh Start Harvesting, Inc*., No. B326759, at *1 (Cal. Ct. App. Mar. 20, 2024), Plaintiff does not bring suit in their individual capacity and does not seek to recover anything through this suit other than civil penalties as permitted under PAGA—they brings this action solely in their representative capacity under the PAGA, on behalf of the State of California, the public, and all aggrieved employees of Defendants.

4. Further, under the authority expressed in *CRST Expedited, Inc. v. Superior Court*, at *883 (112 Cal.App.5th 872 (2025)), Plaintiff pursues a "headless PAGA action" as such actions "were among the choices allowed the LWDA's representatives.

5. To the extent that statutory violations are mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages for those violations, but only references those predicate violations as part of the State's claim for civil penalties under PAGA.

6. Nothing in this complaint is—or should be construed—as an attempt to seek any relief that would not be available in a PAGA-only proceeding.

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THE PARTIES

7. Plaintiff **AMI BERRIOS** ("Plaintiff") is a resident of the County of San Diego in the State of California. Plaintiff was employed by Defendants as an Inside Sales Representative and Ecommerce Representative, a full-time nonexempt position, from approximately around May 2022 to January 2025.

8. Defendant **SSP AMERICA SAN, LLC** is a California stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

9. Defendant **SSP AMERICA FAT, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

10. Defendant **SSP AMERICA OAK, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

11. Defendant **SSP AMERICA ONT, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

12. Defendant **SSP AMERICA SAN T1, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

13. Defendant **SSP AMERICA SFO, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, upon information and belief, employs at least 50 employees.

14. Defendant **SSP AMERICA SJC, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

15. Defendant **SSP AMERICA SMF, LLC** is a California stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

16. Defendant **SSP AMERICA STS, LLC** is a Delaware stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101, and upon information and belief, employs at least 50 employees.

17. Defendant **SSP AMERICA, INC.,** (collectively with SSP AMERICA SAN, LLC; SSP AMERICA FAT, LLC; SSP AMERICA OAK, LLC; SSP AMERICA ONT, LLC; SSP AMERICA SAN T1, LLC; SSP AMERICA SFO, LLC; SSP AMERICA SJC, LLC; SSP AMERICA SMF, LLC; and SSP AMERICA STS, LLC as "Defendant SSP" or "Defendant(s)") is a California stock corporation with a principal place of business of 3665 North Harbor Dr, San Diego, CA 92101. Upon information and belief, SSP AMERICA, INC. employs at least 50 employees.

18. The true names and capacities of the defendants named herein as Does 1 through 20, inclusive (together with SSP, "Defendants"), are unknown to Plaintiff at this time. Accordingly, Plaintiff brings this suit against them by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe Defendants is a California resident and/or does substantial business in the State of California. At all relevant times, Does 1 through 20 were acting within the course and scope of their employment and agency with Defendants. Plaintiff is informed and believes that each Doe Defendant is responsible for the injuries and damages alleged herein. Plaintiff will amend this complaint to reflect Does 1 through 20's true names and capacities when they have been determined.

19. Except as otherwise noted herein, Defendants participated in the acts alleged herein and/or were the agents, servants, employees, or representatives of the other Defendants. At all times relevant to this complaint, Defendants were acting within the course, scope, and authority of their agency and employment such that the acts of one defendant are legally attributable to the other Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and Aggrieved Employees in that each of them exercised control over the wages, hours, and/or working conditions of Defendants' hourly non-exempt employees.

JURISDICTION AND VENUE

20. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI, section 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure, and

the Business & Professions Code.

21. Venue as to Defendants is proper in this Superior Court pursuant to California Code of Civil Procedure section 395. The unlawful acts alleged have directly affected Plaintiff and similarly situated employees within and throughout San Diego County.

FIRST CAUSE OF ACTION

California Labor Code §2699, et seq.

Private Attorneys General Act ("PAGA") Penalties

(Plaintiff and Aggrieved Employees Against Defendants)

22. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders.

23. Plaintiff, by nature of their employment with Defendants, is an aggrieved employee for purposes of this Complaint with standing to bring an action under PAGA.

24. Plaintiff, on behalf of themself, the State of California, and all other Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, *et seq*., seeking civil penalties for Defendants' violation of Labor Code §§ 201-204, 210, 226, 226.7, and 510, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198 as described herein, plus attorneys' fees and costs.

25. Plaintiff does not bring suit in their individual capacity and does not seek to recover anything through this suit other than representative civil penalties as permitted under PAGA—they bring this action solely in their representative capacity under the PAGA, on behalf of the State of California and all aggrieved employees of Defendants.

26. Entitlement to Penalties. Per Labor Code § 2699(f), and based on the foregoing, Plaintiff and Aggrieved Employees are entitled to civil penalties in an amount to be shown at trial subject to the following formula: (a) In an amount set forth as a civil penalty in the underlying statute; or (b) $100 per initial violation per employee per pay period, and $200 for each subsequent violation per employee per pay period.

27. These penalties may be stacked separately for each of Defendants' violations of the Labor

Code. *See, e.g.*, *Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17, n.77 (C.D. Cal. June 22, 2012) ("[F]ederal courts applying California law have concluded that stacking is appropriate."); *see also O'connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016) ("Finally, Plaintiff ignore the potential for stacking of PAGA penalties related to wage-and-hour claims other than the gratuities and expense reimbursement claim, i.e., meal and rest breaks, minimum wage and overtime, and workers' compensation.").

28. These penalties shall be allocated seventy-five percent to the Labor and Workforce Development Agency and twenty-five percent to the affected employees.

29. <u>Predicate Violations</u>. The Aggrieved Employees are entitled to civil penalties under PAGA arising from the following predicate violations of the Labor Code.[1]

30. *Failure to Pay Minimum Wage for All Hours Worked*. California law requires employers to compensate employees for all time that an employee is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or restrains' an employee." *See, e.g.*, *Morillion v. Royal Packing Co*., 22 Cal. 4th 575, 583 (2000).

31. The Wage Orders also require that each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

32. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked because Defendants had a policy and/or practice whereby they required and/or pressured Plaintiff and Aggrieved Employees to work under Defendants' control while off-the-clock, including but not limited to forcing or requiring Plaintiff and Aggrieved Employees to work while they were clocked out for their meal periods.

33. Defendants further failed to pay Plaintiff and Aggrieved Employees any wages for time

[1] To the extent that statutory violations are mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages for those violations, but only references them as part of the State's claim for civil penalties under PAGA for those predicate violations.

engaged in this off-the-clock work.

34. Defendants implemented other uniform policies and practices resulting in off-the-clock work and underpayment of wages, including requiring Plaintiff and Aggrieved employees to don and doff required work uniforms off-the-clock—however, Defendants did not pay wages to Plaintiff and Aggrieved Employees for this time spent working off-the-clock despite the integral and indispensable nature of the uniform requirement.

35. Defendants further failed to pay reporting time to employees who were directed to show up prior to their or at the beginning of their shift via phone or in person but not furnished with at least half their usual or scheduled day's work. *See Ward v. Tilly's, Inc.*, 31 Cal. App. 5th 1167, 1183 (2019), review denied (May 15, 2019).

36. Defendants failed to compensate Plaintiff and Aggrieved Employees for all hours worked because Defendants' common policy and practice failed to pay Aggrieved Employees at least minimum wages for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198. Defendants also failed to pay reporting time pay where applicable in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198.

37. *Failure to Pay Required Overtime.* California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

38. Plaintiff and Aggrieved Employees who work more than eight hours in a day or more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp.*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

39. Defendants failed to record and/or compensate Aggrieved Employees for all time worked due to practices requiring Aggrieved Employes to perform work off-the-clock, and to work through meal breaks. Since some Aggrieved Employees worked shifts equal to or in excess of 8 hour a day or 40 hours

a week, some of this time should have been paid at overtime rates but was not.

40. *Failure to Provide Compliant Meal Periods.* Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . .an employer's obligation is to provide an off-duty meal period: an uninterrupted 30–minute period during which the employee is relieved of all duty." *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

41. Defendants' policies and practices served to deprive the Aggrieved Employees of legally compliant 30-minute breaks free of employer control and/or relieved of all duties.

42. Upon information and belief, Aggrieved Employees were required to interrupt breaks, work through, or remain under Defendants' control due to Defendants' policies and practices, and were denied 30-minute net meal periods due to Defendants impermissible use of their rounding policy for meal periods.

43. *Failure to Provide Compliant Rest Periods*. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC.

44. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: "A rest period, in short, must be a period of rest."[2] *Augustus v. ABM Sec. Servs.,* Inc., 2 Cal.5th 257, 273 (2016).

45. On information and belief, Defendants failed to authorize or permit all required compliant paid rest periods for shifts worked by Aggrieved Employees by requiring them to skip rest periods, interrupt rest periods, or work through rest periods.

46. *Failure to Maintain Compliant Sick Leave Policies.* California Labor Code § 226 mandates that "[a]n employer, semimonthly or at the time of each payment of wages, shall furnish to his or her

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[2] Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of Industrial Relations, "Rest Periods/Lactation Accommodations," *available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm* ("Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.")

employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement" containing certain enumerating items of information.

47. Pursuant to California Labor Code § 246(i), all wages statements provided to employees under Section 226 shall include "the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave." Labor Code § 246(i) ("An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.").

48. Defendants failed to provide employees correct and accurate written notice of the amount of paid sick leave available on either employees' itemized wage statements or in a separate writing provided on Defendants' regularly scheduled pay days.

49. Defendants' actions constitute violations of Labor Code §§ 233 and 245, *et seq.*

50. *Failure to Provide and Maintain Compliant Wage Statements*. Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of his or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

51. Because Defendant did not record all time Plaintiff and Aggrieved Employees spent working as a result of their practices requiring employees to perform work off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Aggrieved Employees in compliance with section 226(a)(1) and 226(a)(5). For the same reason, Defendant failed to accurately list the total number of hours worked by Plaintiff and Aggrieved Employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding

accurate number of work hours worked at each hourly rate in violation of section 226(a)(9). Defendants also failed to list all earned premium wages for missed meal and rest periods on Aggrieved Employees' wage stubs in violation of section 226(a)(1) and (a)(5). *Naranjo v. Spectrum Sec. Servs*., 13 Cal.5th 93, 121 (2022).

52. Defendants knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiffs and Aggrieved Employees.

53. *Failure to Pay All Wages Due On Regular Pay Days And At Separation*. At all times relevant herein set forth, Labor Code § 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

54. At all times relevant herein, Labor Code § 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

55. During the relevant time period, Defendant willfully failed to pay Plaintiff and Aggrieved Employees all earned minimum, overtime, and premium wages at the applicable regular rate of pay within the time periods specified by California Labor Code § 204.

56. Defendants' failure to pay Plaintiff and Aggrieved Employees all wages due violates Labor Code § 204.

57. Labor Code § 203 provides that "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, 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 therefor is commenced; but the wages shall not continue for more than 30 days."

58. Aggrieved Employees have left Defendants' employ during the Period. Defendants knowingly failed to pay Aggrieved Employees all earned wages upon termination by failing to pay all earned minimum, overtime, and premium wages at the applicable regular rate of pay in violation of Labor

Code §§ 201 and 202. *Naranjo v. Spectrum Sec. Servs*., 13 Cal.5th 93, 117 (2022).

59. Defendants' failure to pay Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plaintiff and formerly employed Aggrieved Employees are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

60. *Failure to Reimburse Necessary Business Expenses*. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer." Lab. Code § 2802.

61. On information and belief, Defendants required Plaintiff and Aggrieved Employees to purchase use personal cellular devices to perform their job or duties as mandated by Defendants. However, Defendants did not reimburse Plaintiff or the Aggrieved Employees for these necessary business expenses.

62. *Unauthorized Deductions From Earned Wages*. Labor Code § 221 makes it unlawful for an employer "to collect or receive from an employee any part of wages thereto for paid by said employer to said employee."

63. On information and belief, Defendants deducted, from Plaintiff and Aggrieved Employees earned wages, state taxes unrelated to the state that Aggrieved Employees had performed work for Defendants.

64. <u>Procedural Requirements Met.</u> On October 13, 2025, Plaintiff electronically filed a notice of claims with the LWDA and sent a copy to Defendant SSP America SAN, LLC by certified mail. On December 17, 2025, the sixty-five-day notice period expired. Plaintiff did not receive notice from the LWDA that it would be investigating the complaint nor did Plaintiff receive notice from the LWDA that it was declining to investigate with the 65-day period under Labor Code § 2699.3. Since the LWDA took no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative remedies required to seek penalties under PAGA. See Lab. Code § 2699.3(a)(2). Further, on January 12, 2026, Plaintiff amended her notice to specifically include joint employers Defendants SSP AMERICA

FAT, LLC; SSP AMERICA OAK, LLC; SSP AMERICA ONT, LLC; SSP AMERICA SAN T1, LLC; SSP AMERICA SFO, LLC; SSP AMERICA SJC, LLC; SSP AMERICA SMF, LLC; SSP AMERICA STS, LLC; and SSP AMERICA, INC.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

A. For civil penalties under PAGA to be determined by trial;

B. For pre- and post-judgment interest as allowed;

C. For preliminary and permanent injunctive relief;

D. For reasonable attorney's fees and costs and expert fees and costs; and

E. For such other relief as this Court deems just and proper.

Dated: January 12, 2026

Respectfully submitted,

AKHAVAN & ASSOCIATES

By: ______________________

Bardia A. Akhavan, Esq.
Nahal Barahmand, Esq.
Attorneys for Plaintiff, AMI BERRIOS, as an aggrieved employee, and on behalf of all other aggrieved employees