

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: [www.bamlawca.com](http://www.bamlawca.com)

Attorneys for Plaintiffs

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LOS ANGELES**

DYAN SALATINO, and JERREL PARKER,  
on behalf of the State of California, as a private  
attorney general,

Plaintiff,

vs.

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

Defendants.

Case No. **23TRCV02506**

**FIRST AMENDED REPRESENTATIVE  
ACTION 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).

1 **GOMEZ TRIAL ATTORNEYS, APLC**

John Gomez (State Bar #171485)

2 Emilia Arutunian (State Bar #305824)

655 Broadway, 17<sup>th</sup> Floor

3 San Diego, CA 92101

Telephone: (619) 237-3490

4 Website: <https://www.thegomezfirm.com/>

5 *Attorneys for Plaintiffs*

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1 Dyan Salatino and Jerrel Parker (“PLAINTIFFS”), on behalf of the people of the State  
2 of California and as “aggrieved employees” acting as a private attorney general under the Labor  
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, allege on  
4 information and belief, except for their own acts and knowledge which are based on personal  
5 knowledge, the following:

### 6 **INTRODUCTION**

7 1. PLAINTIFFS bring this action against Defendant American Airlines, Inc.  
8 (referred to as “DEFENDANT”) seeking only to recover PAGA civil penalties for themselves,  
9 and on behalf of all current and former aggrieved employees that worked for DEFENDANT.  
10 PLAINTIFFS do **not seek to recover anything other than penalties as permitted by**  
11 **California Labor Code § 2699**. To the extent that statutory violations are mentioned for wage  
12 violations, PLAINTIFFS do 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 individuals to bring an action on  
15 behalf of themselves and on behalf of others for PAGA penalties *only*, which is the precise and  
16 sole nature of this action.

17 3. Accordingly, PLAINTIFFS seeks to obtain all applicable relief for  
18 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that  
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this  
20 complaint should be construed as attempting to obtain any relief that would not be available in  
21 a PAGA-only action.

### 22 **THE PARTIES**

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

25 5. DEFENDANT is the largest airline in the world when measured by fleet size,  
26 scheduled passengers carried, and revenue passenger mile.  
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1           6.       PLAINTIFF Dyan Salatino was employed by DEFENDANT in California from  
2 1984 to December of 2022. PLAINTIFF Dyan Salatino was at all times classified by  
3 DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally  
4 required meal and rest periods and payment of minimum and overtime wages due for all time  
5 worked.

6           7.       PLAINTIFF Jerrel Parker was employed by DEFENDANT in California from  
7 November of 2019 to September of 2023. PLAINTIFF Jerrel Parker was at all times classified  
8 by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally  
9 required meal and rest periods and payment of minimum and overtime wages due for all time  
10 worked.

11          8.       PLAINTIFFS, and such persons that may be added from time to time who satisfy  
12 the requirements and exhaust the administrative procedures under the Private Attorney General  
13 Act, brings this Representative Action on behalf of the State of California with respect to  
14 themselves and all individuals who are or previously were employed by DEFENDANT in  
15 California, including any employees staffed with DEFENDANT by a third party, and classified  
16 as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period of April  
17 4, 2022 until a date as determined by the Court (the "PAGA PERIOD").

18          9.       PLAINTIFFS, on behalf of themselves and all AGGRIEVED EMPLOYEES  
19 presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this  
20 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for  
21 DEFENDANT's violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218,  
22 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,  
23 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code  
24 of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and the applicable  
25 Wage Order(s). Based upon the foregoing, PLAINTIFFS and all AGGRIEVED EMPLOYEES  
26 are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*  
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10. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFFS are informed and believe, and based upon that information and belief allege, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

11. The agents, servants and/or employees of the Defendants and each of them acting on behalf of the Defendants acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to PLAINTIFFS and all the AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants' agents, servants and/or employees.

## THE CONDUCT

12. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFFS and the AGGRIEVED EMPLOYEES for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFFS and the AGGRIEVED EMPLOYEES to work without paying them for all the time they are under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFFS to work while clocked out during what is supposed to be PLAINTIFFS' off-duty meal break. PLAINTIFFS were from time to time interrupted by work assignments while clocked out for what should have been PLAINTIFFS' off-duty meal break. DEFENDANT, as

1 a matter of established company policy and procedure, administers a uniform practice of  
2 rounding the actual time worked and recorded by PLAINTIFFS and the AGGRIEVED  
3 EMPLOYEES, always to the benefit of DEFENDANT, so that during the course of their  
4 employment, PLAINTIFFS and the AGGRIEVED EMPLOYEES are paid less than they would  
5 have been paid had they been paid for actual recorded time rather than “rounded” time.  
6 Additionally, DEFENDANT engages in the practice of requiring PLAINTIFFS and the  
7 AGGRIEVED EMPLOYEES to perform work off the clock in that DEFENDANT, as a  
8 condition of employment, required these employees to submit to mandatory temperature checks  
9 and symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT’s  
10 timekeeping system for the workday. As a result, PLAINTIFFS and the AGGRIEVED  
11 EMPLOYEES forfeit minimum wage, overtime wage compensation, and off-duty meal breaks  
12 by working without their time being correctly recorded and without compensation at the  
13 applicable rates. DEFENDANT’s policy and practice not to pay PLAINTIFFS and the  
14 AGGRIEVED EMPLOYEES for all time worked, is evidenced by DEFENDANT’s business  
15 records.

16 13. State law provides that employees must be paid overtime and meal and rest break  
17 premiums at one-and-one-half times their “regular rate of pay.” PLAINTIFFS and the  
18 AGGRIEVED EMPLOYEES are compensated at an hourly rate plus incentive pay that is tied  
19 to specific elements of an employee’s performance.

20 14. The second component of PLAINTIFFS’ and the AGGRIEVED EMPLOYEES’  
21 compensation is DEFENDANT’s non-discretionary incentive program that paid PLAINTIFFS  
22 and the AGGRIEVED EMPLOYEES incentive wages based on their performance for  
23 DEFENDANT. The non-discretionary incentive program provided all employees paid on an  
24 hourly basis with incentive compensation when the employees met the various performance  
25 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay  
26 overtime and meal and rest break premiums to PLAINTIFFS and the AGGRIEVED  
27 EMPLOYEES, DEFENDANT failed to include the incentive compensation as part of the  
28 employees’ “regular rate of pay” for purposes of calculating overtime pay and meal and rest

1 break premium pay. Management and supervisors described the incentive program to potential  
2 and new employees as part of the compensation package. As a matter of law, the incentive  
3 compensation received by PLAINTIFFS and the AGGRIEVED EMPLOYEES must be included  
4 in the “regular rate of pay.” The failure to do so has resulted in a underpayment of overtime  
5 compensation and meal and rest break premiums to PLAINTIFFS and the AGGRIEVED  
6 EMPLOYEES by DEFENDANT.

7 15. As a result of their rigorous work schedules, PLAINTIFFS and the AGGRIEVED  
8 EMPLOYEES were from time to time unable to take thirty (30) minute off duty meal breaks  
9 and were not fully relieved of duty for their meal periods. PLAINTIFFS and the AGGRIEVED  
10 EMPLOYEES were required from time to time to perform work as ordered by DEFENDANT  
11 for more than five (5) hours during some shifts without receiving a meal break. Further,  
12 DEFENDANT from time to time fails to provide PLAINTIFFS and AGGRIEVED  
13 EMPLOYEES with a second off-duty meal period for some workdays in which these employees  
14 were required by DEFENDANT to work ten (10) hours of work. DEFENDANT also engaged  
15 in the practice of rounding the meal period times to avoid paying penalties to PLAINTIFFS and  
16 the AGGRIEVED EMPLOYEES. PLAINTIFFS and the AGGRIEVED EMPLOYEES  
17 therefore forfeit meal breaks without additional compensation and in accordance with  
18 DEFENDANT’s corporate policy and practice.

19 16. During the PAGA PERIOD, PLAINTIFFS and the AGGRIEVED EMPLOYEES  
20 were also required from time to time to work in excess of four (4) hours without being provided  
21 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at  
22 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to  
23 time, a first and second rest period of at least ten (10) minutes for some shifts worked of  
24 between six (6) and eight (8) hours from time to time, and a first, second and third rest period  
25 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.  
26 PLAINTIFFS and the AGGRIEVED EMPLOYEES were also not provided with one hour  
27 wages in lieu thereof. Additionally, the applicable California Wage Order requires employers  
28 to provide employees with off-duty rest periods, which the California Supreme Court defined

1 as time during which an employee is relieved from all work related duties and free from  
2 employer control. In so doing, the Court held that the requirement under California law that  
3 employers authorize and permit all employees to take rest period means that employers must  
4 relieve employees of all duties and relinquish control over how employees spend their time  
5 which includes control over the locations where employees may take their rest period.  
6 Employers cannot impose controls that prohibit an employee from taking a brief walk - five  
7 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFFS and the  
8 AGGRIEVED EMPLOYEES from unconstrained walks and is unlawful based on  
9 DEFENDANT's rule which states PLAINTIFF and the AGGRIEVED EMPLOYEES cannot  
10 leave the work premises during their rest period.

11 17. During the PAGA PERIOD, DEFENDANT fails to accurately record and pay  
12 PLAINTIFFS and the AGGRIEVED EMPLOYEES for the actual amount of time these  
13 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,  
14 DEFENDANT was required to pay PLAINTIFFS and the AGGRIEVED EMPLOYEES for all  
15 time worked, meaning the time during which an employee was subject to the control of an  
16 employer, including all the time the employee was permitted or suffered to permit this work.  
17 DEFENDANT required these employees to work off the clock without paying them for all the  
18 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have  
19 known that PLAINTIFFS and the AGGRIEVED EMPLOYEES were under compensated for  
20 all time worked. As a result, PLAINTIFFS and the AGGRIEVED EMPLOYEES forfeited time  
21 worked by working without their time being accurately recorded and without compensation at  
22 the applicable minimum wage and overtime wage rates. To the extent that the time worked off  
23 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay minimum  
24 wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and  
25 1197.1.

26 18. From time to time, DEFENDANT also fails to provide PLAINTIFFS and the  
27 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to  
28 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226

1 provides that every employer shall furnish each of his or her employees with an accurate  
2 itemized wage statement in writing showing, among other things, gross wages earned and all  
3 applicable hourly rates in effect during the pay period and the corresponding amount of time  
4 worked at each hourly rate. PLAINTIFFS and the AGGRIEVED EMPLOYEES were paid on  
5 an hourly basis. As such, the wage statements should reflect all applicable hourly rates during  
6 the pay period and the total hours worked, and the applicable pay period in which the wages  
7 were earned pursuant to California Labor Code Section 226(a). The wage statements  
8 DEFENDANT provided to PLAINTIFFS and the AGGRIEVED EMPLOYEES failed to  
9 identify such information. More specifically, the wage statements failed to identify the accurate  
10 total hours worked each pay period. When the hours shown on the wage statements were added  
11 up, they did not equal the actual total hours worked during the pay period in violation of Cal.  
12 Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph, DEFENDANT  
13 fails to issue to PLAINTIFFS an itemized wage statement that lists all the requirements under  
14 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided  
15 PLAINTIFFS and the AGGRIEVED EMPLOYEES with wage statements which violated Cal.  
16 Lab. Code § 226.

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

21 [I]n addition to, and entirely independent and apart from, any other penalty provided in  
22 this article, every person who fails to pay the wages of each employee as provided in  
23 Sections. . . .204. . .shall be subject to a civil penalty as follows: (1) For any initial  
24 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.

25 20. DEFENDANT from time to time fails to pay PLAINTIFFS and the AGGRIEVED  
26 EMPLOYEES within seven (7) days of the close of the payroll period in accordance with Cal.  
27 Lab. Code § 204(d), including but not limited to for the “Hourly” regular wage payments.  
28

1           21.     DEFENDANT underpaid sick pay wages to PLAINTIFFS and the AGGRIEVED  
2 EMPLOYEES by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.  
3 Code Section 246. Specifically, PLAINTIFFS and other non-exempt employees earn non-  
4 discretionary remuneration, including, but not limited to, incentives, shift differential pay, and  
5 bonuses. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpays sick pay  
6 to PLAINTIFFS and the AGGRIEVED EMPLOYEES at their base rates of pay.

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

11           23.     DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at  
12 the regular rate of pay. PLAINTIFFS and the AGGRIEVED EMPLOYEES routinely earned  
13 non-discretionary incentive wages which increased their regular rate of pay. However, when  
14 sick pay was paid, it was paid at the base rate of pay for PLAINTIFFS and the AGGRIEVED  
15 EMPLOYEES, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab.  
16 Code Section 246.

17           24.     As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and  
18 the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time  
19 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS are informed and  
20 believe and based thereon allege that such failure to pay sick pay at regular rate was willful,  
21 such that the AGGRIEVED EMPLOYEES whose employment has separated are entitled to  
22 waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

23           25.     Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer  
24 to collect or receive from an employee any part of wages theretofore paid by said employer to  
25 said employee." DEFENDANT fails to pay all compensation due to PLAINTIFFS and the  
26 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to  
27 PLAINTIFFS and the AGGRIEVED EMPLOYEES, fails to disclose all aspects of the  
28 deductions from compensation payable to PLAINTIFFS and the AGGRIEVED EMPLOYEES,

1 and thereby fails to pay these employees all wages due at each applicable pay period and upon  
2 termination.

3 26. DEFENDANT intentionally and knowingly fails to reimburse and indemnify  
4 PLAINTIFFS and the AGGRIEVED EMPLOYEES for required business expenses incurred  
5 by the PLAINTIFFS and the AGGRIEVED EMPLOYEES in direct consequence of discharging  
6 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers  
7 are required to indemnify employees for all expenses incurred in the course and scope of their  
8 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or  
9 her employee for all necessary expenditures or losses incurred by the employee in direct  
10 consequence of the discharge of his or her duties, or of his or her obedience to the directions of  
11 the employer, even though unlawful, unless the employee, at the time of obeying the directions,  
12 believed them to be unlawful."

13 27. In the course of their employment PLAINTIFFS and the AGGRIEVED  
14 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal  
15 cellular phones as a result of and in furtherance of their job duties as employees for  
16 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated  
17 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,  
18 PLAINTIFFS and the AGGRIEVED EMPLOYEES were required by DEFENDANT to use  
19 their personal cellular phones. As a result, in the course of their employment with  
20 DEFENDANT, PLAINTIFFS and the AGGRIEVED EMPLOYEES incurred unreimbursed  
21 business expenses which included, but were not limited to, costs related to the use of their  
22 personal cellular phones all on behalf of and for the benefit of DEFENDANT.

23 28. In violation of the applicable sections of the California Labor Code and the  
24 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,  
25 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly  
26 and systematically failed to provide PLAINTIFFS and the other AGGRIEVED EMPLOYEES  
27 suitable seating when the nature of these employees' work reasonably permitted sitting.  
28

1           29.     DEFENDANT knew or should have known that PLAINTIFFS and other  
2 AGGRIEVED EMPLOYEES were entitled to suitable seating and/or were entitled to sit when  
3 it did not interfere with the performance of their duties, and that DEFENDANT did not provide  
4 suitable seating and/or did not allow them to sit when it did not interfere with the performance  
5 of their duties.

6           30.     By reason of this conduct applicable to PLAINTIFFS and all AGGRIEVED  
7 EMPLOYEES, DEFENDANT violated California Labor Code Section 1198 and Wage Order  
8 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFFS seek penalties on behalf  
9 of PLAINTIFFS and other AGGRIEVED EMPLOYEES as provided herein. Providing suitable  
10 seating is the DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of  
11 the obligation to meet this burden, DEFENDANT violated the California Labor Code and  
12 regulations promulgated thereunder as herein alleged.

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

1 vacation upon leaving employment with DEFENDANT. As a result of DEFENDANT's  
2 unlawful practice, policy and procedure to deny paying the PLAINTIFFS and other  
3 AGGRIEVED EMPLOYEES all of their vested vacation and holiday time, DEFENDANT  
4 failed to pay the PLAINTIFFS and other AGGRIEVED EMPLOYEES all vested vacation time  
5 as wages due upon employment termination, in violation of the California Labor Code, Sections  
6 201, 202, 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties to  
7 PLAINTIFFS and other AGGRIEVED EMPLOYEES at their base rates of pay, instead of  
8 including all of PLAINTIFFS' and other AGGRIEVED EMPLOYEES' non-discretionary  
9 compensation into the waiting time penalty calculations. This failure by DEFENDANT is  
10 believed to be the result of DEFENDANT's unlawful, unfair and deceptive refusal to provide  
11 compensation for earned, accrued and vested vacation and holiday time, as well as the  
12 corresponding waiting time penalties that were paid. DEFENDANT perpetrated this unlawful,  
13 unfair and deceptive practice to the detriment of PLAINTIFFS and other AGGRIEVED  
14 EMPLOYEES. DEFENDANT's uniform practice and policy of failing to pay the  
15 AGGRIEVED EMPLOYEES for all vested vacation and holiday time accumulated at  
16 employment termination violated and continues to violate Section 227.3 of the California Labor  
17 Code.

18 32. All of the conduct and violations alleged herein occurred during the PAGA  
19 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect  
20 PLAINTIFF during the PAGA PERIOD, PLAINTIFFS seek penalties for those violations that  
21 affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018  
22 AJDAR 12157 (Certified for Publication 12/19/18).

### 23 24 **JURISDICTION AND VENUE**

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

27 34. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
28 Sections 395.5 and 393, because DEFENDANT operates in locations across California,

1 employs AGGRIEVED EMPLOYEES across California, including in this County, and  
2 committed the wrongful conduct herein alleged in this County against AGGRIEVED  
3 EMPLOYEES.

4 **FIRST CAUSE OF ACTION**

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

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

7 **(By PLAINTIFFS and Against All Defendants)**

8 35. PLAINTIFFS reallege and incorporate by this reference, as though fully set forth  
9 herein, the prior paragraphs of this Complaint.

10 36. PAGA is a mechanism by which the State of California itself can enforce state  
11 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the  
12 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
13 fundamentally a law enforcement action designed to protect the public and not to benefit private  
14 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a  
15 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In  
16 enacting PAGA, the California Legislature specified that "it was ... in the public interest to  
17 allow aggrieved employees, acting as private attorneys general to recover civil penalties for  
18 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be  
19 subject to arbitration.

20 37. PLAINTIFFS, and such persons that may be added from time to time who satisfy  
21 the requirements and exhaust the administrative procedures under the Private Attorney General  
22 Act, brings this Representative Action on behalf of the State of California with respect to  
23 themselves and all individuals who are or previously were employed by DEFENDANT in  
24 California, including any employees staffed with DEFENDANT by a third party, and classified  
25 as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period of April  
26 4, 2022 until a date as determined by the Court (the "PAGA PERIOD").

27 38. On April 4, 2023, PLAINTIFF Dyan Salatino gave written notice by electronic  
28 mail to the Labor and Workforce Development Agency (the "Agency") and by certified mail to

1 the employer of the specific provisions of this code alleged to have been violated as required  
2 by Labor Code § 2699.3. *See Exhibit #1*, attached hereto and incorporated by this reference  
3 herein (*PAGA Notice only without draft complaint*). The statutory waiting period for  
4 PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to  
5 Section 2699.3, PLAINTIFF may now commence a representative civil action under PAGA  
6 pursuant to Section 2699 as the proxy of the State of California with respect to all  
7 AGGRIEVED EMPLOYEES as herein defined.

8 39. On October 23, 2023, PLAINTIFFS gave amended written notice by  
9 electronic mail to the Agency and by certified mail to the employer of the specific provisions  
10 of this code alleged to have been violated as required by Labor Code § 2699.3. *See Exhibit #2*,  
11 attached hereto and incorporated by this reference herein (*PAGA Notice only without draft*  
12 *complaint*). The statutory waiting period for PLAINTIFFS to add these allegations to the  
13 Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFFS may now  
14 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of  
15 the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

16 40. The policies, acts and practices heretofore described were and are an unlawful  
17 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the  
18 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record  
19 and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed  
20 to pay overtime wages and sick pay wages, (e) failed to reimburse employees for required  
21 expenses, (f) failed to provide wages when due, and (g) failed to provide suitable seating, all  
22 in violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204  
23 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197,  
24 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-  
25 (B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating),  
26 and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such  
27  
28

1 conduct.<sup>1</sup> PLAINTIFFS hereby seek recovery of only civil penalties as prescribed by the Labor  
2 Code Private Attorney General Act of 2004 as the representative of the State of California for  
3 the illegal conduct perpetrated on PLAINTIFFS and the AGGRIEVED EMPLOYEES.

4  
5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and  
7 severally, as follows:

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

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

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

14 Dated: January 02, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW  
15 LLP

16  
17 By: /s/ Nicholas J. De Blouw  
18 Norman B. Blumenthal  
19 Kyle R. Nordrehaug  
20 Nicholas J. De Blouw

21 **GOMEZ TRIAL ATTORNEYS, APLC**  
22 John Gomez (State Bar #171485)  
23 Emilia Arutunian (State Bar #305824)  
24 655 Broadway, 17<sup>th</sup> Floor  
25 San Diego, CA 92101

26 *Attorneys for Plaintiffs*

27  
28 <sup>1</sup>Plaintiffs specifically exclude and/or does not allege any claims under California Labor  
Code §558(a)(3).

# **EXHIBIT 1**

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: [www.bamlawca.com](http://www.bamlawca.com)

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

[Nick@bamlawca.com](mailto:Nick@bamlawca.com)

WRITERS EXT:

1004

April 4, 2023

CA2907

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

American Airlines, Inc.  
Certified Mail #70223330000181864088  
CSC - LAWYERS INCORPORATING SERVICE  
BECKY DEGEORGE  
2170 GATEWAY OAKS DRIVE STE 150N  
SACRAMENTO, CA 95833

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 American Airlines, Inc. in California, including any employees staffed with American Airlines, Inc. by a third party, and classified as non-exempt employees during the time period of April 4, 2022 until a date as determined by the Court. Our offices represent Plaintiff Dyan Salatino (“Plaintiff”) and other Aggrieved Employees in a lawsuit against American Airlines, Inc. (“Defendant”). Plaintiff was employed by Defendant in California from 1984 to December of 2022. Plaintiff was 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. 5<sup>th</sup> 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.

## **EXHIBIT 2**

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

**2255 CALLE CLARA**

**LA JOLLA, CALIFORNIA 92037**

Web Site: [www.bamlawca.com](http://www.bamlawca.com)

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

[Nick@bamlawca.com](mailto:Nick@bamlawca.com)

WRITERS EXT:

1004

October 23, 2023

CA2907

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

American Airlines, Inc.  
Certified Mail #9589071052700182377201  
CSC - LAWYERS INCORPORATING SERVICE  
BECKY DEGEORGE  
2170 GATEWAY OAKS DRIVE STE 150N  
SACRAMENTO, CA 95833

Amended Notice for LWDA, Case No. LWDA-CM-946432-23

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:

Our offices represent Plaintiff Dyan Salatino, and other Aggrieved Employees in a lawsuit against Defendant American Airlines, Inc. ("Defendant").

Plaintiff Salatino originally sent a PAGA Notice on April 4, 2023, which gave notice to the LWDA, and Defendant American Airlines, Inc., to enable Plaintiff Salatino to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.*

This Amended Notice is intended to amend Plaintiff Salatino's original PAGA Notice and to add additional Plaintiff, Jerrel Parker. Plaintiffs Dyan Salatino and Jerrel Parker shall collectively be referred to as "Plaintiffs".

"Aggrieved Employees" refers to all individuals who are or previously were employed by American Airlines, Inc. in California, including any employees staffed with American Airlines, Inc. by a third party, and classified as non-exempt employees during the time period of April 4, 2022 until a date as determined by the Court. Our offices represent Plaintiffs and other Aggrieved Employees in a lawsuit against Defendant. Plaintiff Salatino was employed by Defendant in California from 1984 to December of 2022 as a nonexempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant's control. Plaintiff Parker was employed by Defendant in California from November 2019 to

September 2023 as a nonexempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant's control. Defendant, however, unlawfully failed to record and pay Plaintiffs 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 Plaintiffs 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 Plaintiffs and Aggrieved Employees for at least two (2) hours' worth of work at their regular rate of pay. In addition, when Defendant required Plaintiffs 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 Plaintiffs 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. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiffs and other Aggrieved Employees with their wages. Plaintiffs further contends that Defendant failed to provide accurate wage statements to them, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFFS 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 PLAINTIFFS 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, Plaintiffs contend that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiffs began and ended each shift and meal period. Plaintiffs 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 Plaintiffs 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 11070(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 First Amended Complaint by Plaintiffs 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 Plaintiffs, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiffs, 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. Plaintiffs 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 amended notice is provided to enable Plaintiffs 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