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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO-CENTRAL DIVISION

ETOYA WILLIAMS, as the State of
California's designated proxy under the
Private Attorneys General Act (PAGA)
and on behalf of others,

Plaintiffs,

vs.

FAMILY DOLLAR, INC., a North
Carolina corporation; and DOES 1
through 50 inclusive

Defendants.

Case No.: 37-2023-00015436-CU-OE-CTL

**REPRESENTATIVE ACTION
COMPLAINT VIA THE PAGA
FOR:**

- 1. Failure to Pay State
Minimum/Regular Wages;**
- 2. Failure to Pay State Overtime;**
- 3. Failure to Make Payments Within
the Required Time;**
- 4. Meal and Rest Break Labor Code
Violations;**
- 5. Failure to Provide Accurate Wage
Statements;**
- 6. Failure to Maintain Records;**
- 7. Failure to Reimburse Work
Related Expenses;**
- 8. Inadequate Seating; and**
- 9. Claim for miscellaneous Labor
Code Violations via the PAGA.**

1 Plaintiff ETOYA WILLIAMS, in her capacity as the State of California's
2 designated proxy under the Private Attorneys General Act and on behalf of Aggrieved
3 Employees (collectively the "Plaintiffs"), alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is a representative action under the Private Attorneys General Act
6 (PAGA) of 2004, as amended, Labor Code §§ 2698, *et seq.*

7 2. By this action, Plaintiffs seek only civil penalties only, not individualized
8 damages, for Defendants' violations of the California Labor Code within the meaning
9 of current case law distinguishing *Viking River Cruises, Inc. v. Moriana* (2022) ____
10 U.S. ____ [142 S.Ct. 1906]. (See *Piplack v. In-N-Out Burgers* (2023) 88 Cal.App.5th
11 1281; *Galarsa v. Dolgen California, LLC* (2023) 88 Cal.App.5th 639; *Gregg v. Uber*
12 *Technologies, Inc.* (Mar. 24, 2023, No. B302925) ____ Cal.App.5th ____ [2023 Cal.
13 App. LEXIS 221]; *Million Seifu v. Lyft, Inc.* (Mar. 30, 2023, No. B301774)
14 ____ Cal.App.5th ____ [2023 Cal. App. LEXIS 247]; *Prostek v. Lincare Inc.* (E.D. Cal.
15 March 21, 2023) 2023 U.S. Dist. LEXIS 48155.)

16 **JURISDICTION AND VENUE**

17 3. Pursuant to Article VI, § 10 of the California Constitution, subject matter
18 jurisdiction is proper in the Superior Court of California, County of San Diego, State
19 of California because Plaintiffs allege claims arising under California law.

20 4. This Court has jurisdiction over the Defendants because each is an
21 association, corporation, business entity, or individual that conducts substantial
22 business in the State of California, County of San Diego.

23 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is
24 proper in the Superior Court of California for the County of San Diego because this is
25 where Defendants conduct substantial business.

26 **THE PARTIES**

27 6. The State of California is the real party in interest in a PAGA action.
28 (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81 [the "government entity on

1 whose behalf the plaintiff files suit is always the real party in interest.”].)

2 7. Plaintiff ETOYA WILLIAMS is an individual that resides in California.

3 8. Defendant FAMILY DOLLAR, INC. is a North Carolina corporation
4 that during all times relevant was doing business in California.

5 9. The true names and capacities, whether individual, corporate, associate,
6 or otherwise of the Defendants named herein as DOES 1 through 50, are unknown to
7 Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious
8 names pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will
9 seek leave to amend this Complaint to allege the true names and capacities of DOES
10 1 through 50 when the correct identities are ascertained. Plaintiffs are informed and
11 believes, and based thereon alleges, that each of the DOE Defendants is in some
12 manner liable to Plaintiffs for the events and actions alleged herein. All named
13 Defendants and DOES 1 through 50 are collectively referred to as “Defendants.”

14 10. Plaintiffs are informed and believe, and based thereon allege that at all
15 times relevant herein each Defendant was acting as an agent, joint venture, or as an
16 integrated enterprise and/or alter ego for each of the other Defendants, and each was a
17 co-conspirator with respect to the acts and the wrongful conduct alleged herein, so
18 that each is responsible for the acts of the other in connection with the conspiracy and
19 in proximate connection with the other Defendants.

20 11. Plaintiffs are informed and believe, and based thereon allege that each
21 Defendant was acting partly within and partly without the scope and course of their
22 employment, and was acting with the knowledge, permission, consent, and
23 ratification of every other Defendant.

24 12. Plaintiffs are informed and believe, and based thereon allege that each
25 of the Defendants was an agent, managing general partner, managing member, owner,
26 co-owner, partner, employee, and/or representative of each of the Defendants, and
27 were at all times material hereto, acting within the purpose and scope of such agency,
28 employment, contract and/or representation, and that each of them are jointly and

severally liable to Plaintiffs for the acts alleged herein

13. Plaintiffs are informed and believe, and based thereon allege that each of the Defendants are liable to Plaintiffs under legal theories and doctrines including but not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter ego, based in part, on the facts set forth below.

14. Plaintiffs are informed and believe, and based thereon allege that each of the named Defendants are part of an integrated enterprise and have acted or currently act as the employer and/or joint employer of Plaintiffs, making each of them liable for the wage and hour violations alleged herein.

GENERAL ALLEGATIONS

15. Defendants are generally in the retail store business.

16. At all times relevant, Defendants employed Plaintiff WILLIAMS as a store employee on an hourly basis as a non-exempt nonunion worker who performed work in California from about October 21, 2022, until Defendants terminated her on or about March 7, 2023.

17. The named Plaintiff is an “aggrieved employee” because Defendants employed Plaintiff in California and Plaintiff experienced one or more of the alleged Labor Code violations committed against the Plaintiff, and therefore the named Plaintiff is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the Represented Employees, who are also aggrieved employees as defined by Labor Code § 2699(c).

18. California law provides that an aggrieved employee may file a representative action under the PAGA against an employer for civil penalties in connection with violations of the Labor Code and Wage Order.

19. On information and belief, current and former employees of Defendants suffered from Defendants’ Labor Code violations.

Wage Statement Claims.

20. From at least one year before the filing of this action and continuing to

1 the present, and pursuant to company policy and/or practice and/or direction,
2 Plaintiffs are informed and believe, and therefore allege that Defendants issued
3 Plaintiff WILLIAMS and other Aggrieved Employees erroneous wage and earning
4 statements.

5 21. For example, for the pay period of December 11, 2022, to December 24,
6 2022, Defendants issued Plaintiff WILLIAMS a wage and earning statement that said
7 she lost “-\$3.11” in overtime wages, when it is legally impossible to lose overtime
8 wages.

9 22. In addition to the foregoing stand-alone claim under Labor Code § 226,
10 Plaintiffs are informed and believe, and therefore allege that Plaintiff’s paystubs and
11 those of similarly situated employees of Defendants were inaccurate because
12 Defendants failed to pay them all wages to which they had a right to receive, as
13 alleged herein, supporting a derivative claim under Labor Code § 226.

14 23. As to Plaintiffs’ PAGA case, this claim is also premised, in part, on
15 Plaintiff’s right to pursue all Labor Code claims on behalf of Aggrieved Employees
16 per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

17 **Wage Claims.**

18 24. From at least one year before the filing of this action and continuing to
19 the present, and pursuant to company policy and/or practice and/or direction,
20 Plaintiffs are informed and believe, and therefore allege, that Defendants employed
21 failed to pay Aggrieved Employees all wages, e.g., overtime, minimum wages, etc., as
22 required by law.

23 25. For example, during the workweek of December 11, 2022, to December
24 17, 2022, Plaintiff WILLIAMS’s timesheet said she worked 1.37 hours of overtime,
25 but Defendants did not pay her for her overtime.

26 26. This claim is also premised on Plaintiff’s right to pursue all Labor Code
27 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
28 *USA, Inc.* (2018) 23 Cal.App.5th 745.

1 **Failure to Pay Meal and Rest Break Premiums.**

2 27. From at least one year before the filing of this action and continuing to
3 the present, and pursuant to company policy and/or practice and/or direction,
4 Plaintiffs are informed and believe and based thereupon allege that Defendants
5 deprived Plaintiffs and other hourly employees from taking lawful meal and rest
6 periods and did not pay and refused to pay premium pay to workers.

7 28. Related to this claim, none of Plaintiff's timesheets Defendants produced
8 in response to Plaintiff's request for records show when she took her meal breaks or
9 how long they were and the failure to produce and maintain these records are
10 violations of the Labor Code.

11 29. Plaintiffs are informed and believe and based thereupon allege that also
12 because of Defendants' policy, Defendants prevented Aggrieved Employees from
13 taking all their uninterrupted rest breaks to which they had the right to enjoy in an
14 amount to be proven at trial, and Defendants failed to pay them premium pay as
15 required under California law. (*See Augustus v. ABM Security Services* (2016) 2
16 Cal.5th 257.)

17 30. This claim is premised on Plaintiff's right to pursue all Labor Code
18 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
19 *USA, Inc.* (2018) 23 Cal.App.5th 745.

20 **Unreimbursed Work-Related Expense Claims.**

21 31. From at least one year before the filing of this action and continuing to
22 the present, and pursuant to company policy and/or practice and/or direction,
23 Plaintiffs are informed and believe and based thereupon allege that Defendants failed
24 to reimburse its employees for work related expenses.

25 32. This claim is premised on Plaintiff's right to pursue all Labor Code
26 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
27 *USA, Inc.* (2018) 23 Cal.App.5th 745.
28

1 **Derivative Claims.**

2 33. From at least one year before the filing of this action and continuing to
3 the present, and pursuant to company policy and/or practice and/or direction,
4 Plaintiffs and others did not receive their final paychecks immediately upon
5 involuntary termination or within 72 hours of voluntary separation, were not paid
6 final wages at the location of employment, and said final paychecks did not include
7 all wages due to the employee.

8 34. For example, on March 7, 2023, Defendants involuntarily terminated
9 Plaintiff's employment.

10 35. The date Defendants issued Plaintiff her last paycheck, however, is
11 March 24, 2023--more than three weeks late in violation of Labor Code § 201.

12 36. When Defendants terminated Plaintiff WILLIAMS, Plaintiff alleges that
13 Defendants failed to pay Plaintiff WILLIAMS all unpaid wages in Plaintiff's final
14 paycheck or in a timely manner pursuant to law.

15 37. To date, Plaintiff alleges that Defendants have not paid Plaintiff all of
16 Plaintiff's wages due and payable, in an amount to be proven at trial.

17 38. Plaintiffs' derivative claims are also premised, in part, on Plaintiffs' right
18 to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v.*
19 *Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

20 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

21 39. This wage and hour representative action filed pursuant to PAGA, §§
22 2698, 2699 generally consists of the following group:

23 **All current or former employees Defendants employed in**
24 **California from April 12, 2022 to the present.**

25 40. All members of the represented group are referred to as the "Aggrieved
26 Employees."

27 41. The "Representative Period" means from **April 12, 2022 to the present.**

28 42. Plaintiff further alleges, on information and belief, that Aggrieved

1 Employees, did not receive all wages due at the time their employment ended with
2 Defendants.

3 43. On information and belief, Defendants current and former employees
4 were subject to wage and hour violations by Defendants, including failing to be paid
5 for all wages due.

6 44. California law provides that an employee may file an action against an
7 employer for penalties in connection with violations of the Labor Code and Wage
8 Orders provided the aggrieved employee file an action on behalf of himself or herself
9 and similarly situated current and former employees.

10 45. At all material times, Defendants and DOES 1 through 50 were and/or
11 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
12 Employees' employer, within the meaning of California Labor Code § 558, who
13 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
14 Labor Code or any provision regulating hours and days of work in any Order of the
15 Industrial Welfare Commission and, as such, are subject to penalties for each
16 underpaid employee as set for in Labor Code § 558.

17 46. As set forth in further detail below, because of the analysis and
18 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent the required
19 correspondence to the California Labor and Workforce Development Agency
20 ("LWDA") and to Defendants informing Defendants of Plaintiffs' claims and
21 Plaintiffs' intent to pursue litigation.

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 47. Pursuant to the PAGA, on **April 12, 2023**, Plaintiffs, *et al.*, via counsel,
24 sent correspondence to the LWDA and Defendants via certified U.S. Mail indicating
25 that Plaintiffs are pursuing the claims alleged in this Complaint.

26 48. The statutory period for Plaintiffs has not expired for the letter alleged
27 above and the LWDA did not serve Plaintiffs with notice of intent to assume
28 jurisdiction over the applicable penalty claims and did not provide notice as set forth

1 in Labor Code § 2699.3(a)(2)(A) within the statutory period.

2 49. Therefore, Plaintiffs have not exhausted Plaintiffs' administrative
3 remedies to pursue claims and remedies as authorized by the PAGA, but once the
4 statutory waiting period expires, Plaintiffs will file an amended Complaint.

5 50. The Causes of Action alleged herein are appropriately suited for a
6 Representative Action under PAGA (Labor Code § 2698, *et seq.*) because:

7 a. This action involves allegations of violations of provisions of
8 the California Labor Code that provide for a civil penalty to be
9 assessed and collected by the LWDA or any departments,
10 divisions, commissions, boards, agencies, or employees;

11 b. Plaintiffs are "aggrieved employees" because Plaintiffs were
12 employed by the alleged violator and had one or more of the
13 Labor Code violations alleged on this Complaint committed
14 against them; and

15 c. Plaintiffs have satisfied the procedural requirements of
16 Labor Code § 2699.3, as set forth above.

17 **FIRST CAUSE OF ACTION**

18 **Representative Claim via the PAGA for**

19 **Failure to Pay State Minimum/Regular Wages**

20 **in Violation of California Labor Code §§ 200, 227.3, 1194,**

21 **1197, 1811, and 1815, and the applicable Wage Order**

22 (Against all Defendants)

23 51. Plaintiffs re-allege and incorporate by reference the foregoing allegations
24 as though set forth herein.

25 52. Pursuant to Labor Code §§ 200, 1194, 1197, 1197.1, 1811, 1815, and
26 1198, it is unlawful for a California employer to suffer or permit an employee to work
27 without paying wages for all hours worked, as required by the applicable Industrial
28 Welfare Commission (IWC) Wage Order.

1 53. Labor Code § 227.3 provides that “[u]nless otherwise provided by a
2 collective bargaining agreement, whenever a contract of employment or employer
3 policy provides for vacation time, all vested vacation shall be paid to him as wages in
4 accordance with such contract or employment or employer policy respecting
5 eligibility or time served; provided, however, that an employment contract or
6 employer policy shall not provide for the forfeiture of vested vacation time upon
7 termination.”

8 54. Plaintiffs are informed and believe and based thereupon allege that
9 during all times relevant, Plaintiffs were not paid minimum/regular wages for all
10 hours suffered or permitted to work in violation of California law.

11 55. Plaintiffs are also informed and believe and based thereupon allege that
12 Defendants failed to pay Aggrieved Employees for all vacation/PTO pay they
13 accrued.

14 56. During all times relevant, Defendants were required to pay Plaintiffs and
15 other members of the Aggrieved Employees their respective hourly rate for all hours
16 worked and/or minimum wages per state law or applicable local law.

17 57. During all times relevant, at least one of the IWC Wage Orders applied
18 to Plaintiffs’ employment with Defendants.

19 58. Pursuant to the applicable Wage Order, “hours worked” include the time
20 during which an employee is “suffered or permitted to work, whether or not required
21 to do so.”

22 59. During the proposed Aggrieved Employees Period and based on the
23 misconduct alleged above, Plaintiffs allege Defendants did not pay Plaintiffs and
24 Aggrieved Employees minimum/regular wages for all hours suffered or permitted to
25 work in violation of state and/or local law.

26 60. This claim is also premised on Plaintiffs’ right to pursue all Labor Code
27 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
28 *USA, Inc.* (2018) 23 Cal.App.5th 745.

1 61. Labor Code § 1194 subdivision (a) permits an action to recover wages
2 because of the payment of a wage less than the minimum wage “applicable to the
3 employee” including attorneys’ fees, costs, and interest.

4 62. At all material times, Defendants were and/or are Aggrieved
5 Employees’ employers or persons acting on behalf of Aggrieved Employees’
6 employer, within the meaning of California Labor Code §§ 558 and 558.1, who
7 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
8 Labor Code or any provision regulating hours and days of work in any Order of the
9 Industrial Welfare Commission and, as such, are subject to civil penalties for each
10 underpaid employee as set for in Labor Code § 558.

11 63. In committing the violations of state law as herein alleged, Plaintiffs are
12 informed and believe based there upon allege that Defendants have knowingly and
13 willfully refused to perform their obligations to compensate Aggrieved Employees for
14 all wages earned and all hours worked.

15 64. As a direct result, Aggrieved Employees have suffered and continue to
16 suffer, substantial losses related to the use and enjoyment of such compensation,
17 wages, lost interest on such monies and expenses and attorneys’ fees in seeking to
18 compel Defendants to fully perform their obligations under state and/or local law.

19 65. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
20 them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per
21 pay period for the initial violation and two hundred (\$200.00) for each aggrieved
22 employee per pay period for each subsequent violation in which Defendants violated
23 the minimum wage and/or regular wage provisions of the Labor Code, including but
24 not limited to §§ 216, 218, 218.5, 227.3, 558, 1194, 1197, 1197.1, 1811, 1815,
25 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is all in
26 an amount to be shown according to proof at trial.

27 66. Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
28 seek to recover from Defendants, and each of them, penalties, attorneys’ fees, and

costs incurred herein.

SECOND CAUSE OF ACTION

Representative Claim via the PAGA for

**Failure to Pay State Overtime and/or Double-Time Compensation
in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, 510,
1182.12, 1194, 1194.2, 1197, 1197.1,
1811, 1815, and the Applicable IWC Wage Order**

(Against all Defendants)

67. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

68. California law requires an employer to pay each employee for the actual hours worked. (Cal. Labor Code § 200.)

69. During all times relevant, one or more of the IWC Wage Orders applied to Plaintiffs' employment with Defendants.

70. Pursuant to § 2(K) of the applicable Wage Order(s), including Wage Order 15, "hours worked" include the time during which an employee is "suffered or permitted to work, whether or not required to do so."

71. Pursuant to Labor Code §§ 510, 1194, 1194.2, and § 3 of the applicable Wage Order(s), for each hour (or fraction thereof) an employee works up to forty (40) hours in a week and eight (8) hours in a day, the employer must pay the employee's regular hourly wage.

72. For each hour (or fraction thereof) an employee works over forty (40) hours in a week or more than eight (8) hours in a workday the employer must pay the rate of one and a half times the employee's regular hourly wage.

73. For each hour (or fraction thereof) an employee works more than twelve (12) hours in one day or more than eight (8) hours a day on the seventh consecutive day of work, the employer must compensate the employee at the rate of no less than twice the regular rate of pay for that employee.

1 74. During all times relevant, and pursuant to company policy and/or
2 practice and/or direction, Defendants required Plaintiffs and the Aggrieved
3 Employees to work more than 40 hours per week and/or eight hours in a workday to
4 which they had the right to receive wages and Defendants did not pay Plaintiff and
5 the Aggrieved Employees all overtime compensation to which they should have
6 received at the applicable wage rate.

7 75. As alleged herein, Plaintiffs allege Defendants failed to pay Aggrieved
8 Employees all overtime to which they had a right to receive.

9 76. This claim is also premised on Plaintiffs' right to pursue all Labor Code
10 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
11 *USA, Inc.* (2018) 23 Cal.App.5th 745.

12 77. In committing the violations of state law as herein alleged, Defendants
13 have knowingly and willfully refused to perform their obligations to compensate
14 Aggrieved Employees for all wages earned and all hours worked.

15 78. At all material times, Defendants were and/or are Aggrieved Employees'
16 employers or persons acting on behalf of Aggrieved Employees' employer, within the
17 meaning of California Labor Code §§ 558 and 558.1, who violated or caused to be
18 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
19 regulating hours and days of work in any Order of the Industrial Welfare Commission
20 and, as such, are subject to penalties for each underpaid employee as set for in Labor
21 Code § 558.

22 79. In committing the violations of state law as herein alleged, Defendants
23 have knowingly and willfully refused to perform their obligations to compensate
24 Aggrieved Employees for all wages earned and all hours worked.

25 80. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
26 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
27 period for the initial violation and two hundred (\$200.00) for each aggrieved
28 employee per pay period for each subsequent violation in which Defendants violated

1 the overtime provisions of the Labor Code, including but not limited to §§ 510, 558
2 and 1194, the exact amount of the penalties sought is in an amount to be shown
3 according to proof at trial.

4 81. Pursuant to Labor Code § 2699, *et seq.* Plaintiffs seek to recover from
5 Defendants, and each of them, penalties, attorneys' fees, and costs incurred herein.

6 **THIRD CAUSE OF ACTION**

7 **Representative Claim via the PAGA for**

8 **Failure to Timely Pay Earned Wages Upon Separation of Employment in** 9 **Violation of California Labor Code §§ 201, 201.3, 202, 203, 204, 204b, 204.2, 210,** 10 **218.5, 218.6, 256, 1198 and the applicable Wage Order**

11 (Against all Defendants)

12 82. Plaintiffs re-allege and incorporate by reference the foregoing allegations
13 as though set forth herein.

14 83. Pursuant to Labor Code § 201, "If an employer discharges an employee,
15 the wages earned and unpaid at the time of discharge are due and payable
16 immediately."

17 84. Pursuant to Labor Code § 202, "If an employee not having a written
18 contract for a definite period quits his or her employment, his or her wages shall
19 become due and payable not later than 72 hours thereafter, unless the employee has
20 given 72 hours previous notice of his or her intention to quit, in which case the
21 employee is entitled to his or her wages at the time of quitting."

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

27 86. Pursuant to Labor Code § 204, "all wages ... earned by any person in
28 any employment are due and payable twice during each calendar month, on days

1 designated in advance by the employer as the regular paydays.”

2 87. Pursuant to Labor Code § 204b, “Labor performed by a weekly-paid
3 employee during any calendar week and prior to or on the regular payday shall be
4 paid for not later than the regular payday of the employer for such weekly-paid
5 employee falling during the following calendar week.”

6 88. Defendants did not properly pay Plaintiff and Aggrieved Employees
7 pursuant to the requirements of Labor Code, including but not limited to §§ 201,
8 201.3, 202, 203, 204, 204b, 204.2, 210, 218.5, 218.6, 256 and thereby Plaintiffs seek
9 the unpaid wages.

10 89. To date, Defendants have not paid terminated Aggrieved Employees all
11 earned wages as required by law.

12 90. At all material times, Defendants and DOES 1 through 50 were and/or
13 are Aggrieved Employees’ employers or persons acting on behalf of Aggrieved
14 Employees’ employer, within the meaning of California Labor Code § 558, who
15 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
16 Labor Code or any provision regulating hours and days of work in any Order of the
17 Industrial Welfare Commission and, as such, are subject to penalties for each
18 underpaid employee as set for in Labor Code § 558.

19 91. In committing the violations of state law as herein alleged, Defendants
20 have knowingly and willfully refused to perform their obligations to compensate
21 Aggrieved Employees for all wages earned and all hours worked.

22 92. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
23 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
24 period for the initial violation and two hundred (\$200.00) for each aggrieved
25 employee per pay period for each subsequent violation in which Defendants violated
26 the Labor Code, including but not limited to §§ 201, 201.3, 202, 203, 204, 204b,
27 204.2, 210, 218.5, 218.6, 256.

28 93. As alleged above, Defendants have deprived Plaintiffs and Aggrieved

1 Employees of their rightfully earned wages as a direct and proximate result of
2 Defendants' failure and refusal to pay said compensation and for the reasons alleged
3 in this Complaint.

4 94. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
5 Employees pursuant to the PAGA.

6 **FOURTH CAUSE OF ACTION**

7 **Representative Claim for Penalties via the PAGA for**
8 **Failure to Comply with the Meal and Rest Break Requirements Under Labor**
9 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order**

10 (Against all Defendants)

11 95. Plaintiffs re-allege and incorporate by reference the foregoing allegations
12 as though set forth herein.

13 96. Based on the misconduct alleged in this Complaint, Defendants failed to
14 pay Plaintiff and Aggrieved Employees premium pay for all their missed meal and
15 rest breaks and failed to comply with Labor Code §§ 226.7, 512, and 1198.

16 97. Because of Defendants' illegal pay practices, said Defendants failed to
17 pay Plaintiff and Aggrieved Employees for all meal and rest breaks despite their
18 requirement under California law and, as such, all culpable Defendants are required to
19 pay Plaintiff and Aggrieved Employees for rest break and/or meal break premium
20 wages.

21 98. Defendants also failed to provide Plaintiff, and Aggrieved Employees,
22 legally-compliant meal and rest periods, or compensation in lieu thereof, during their
23 employment by said Defendants.

24 99. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
25 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
26 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
27 pay period for each subsequent violation in which all culpable Defendants violated
28 Cal. Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in

1 an amount to be shown according to proof at trial.

2 100. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
3 Employees pursuant to the PAGA.

4 **FIFTH CAUSE OF ACTION**

5 **Representative Claim for Penalties via the PAGA for**
6 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,**
7 **and the applicable IWC Wage Order**
8 **(Against all Defendants)**

9 101. Plaintiffs re-allege and incorporate by reference the foregoing allegations
10 as though set forth herein.

11 102. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
12 pertinent part, that every employer shall, “semimonthly or at the time of each
13 payment of wages, shall furnish to his or her employees, either as a detachable part of
14 the check, draft, or voucher paying the employee's wages, or separately if wages are
15 paid by personal check or cash, an accurate itemized statement in writing showing (1)
16 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
17 piece-rate units earned and any applicable piece rate if the employee is paid on a
18 piece-rate basis, (4) all deductions, provided that all deductions made on written
19 orders of the employee may be aggregated and shown as one item, (5) net wages
20 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
21 name of the employee and only the last four digits of his or her social security
22 number..., (8) the name and address of the legal entity that is the employer. . . , and
23 (9) all applicable hourly rates in effect during the pay period and the corresponding
24 number of hours worked at each hourly rate by the employee and, beginning July 1,
25 2013, if the employer is a temporary services employer as defined in Section 201.3,
26 the rate of pay and the total hours worked for each temporary services assignment. . .”
27 (Labor Code § 226 subdivision (a).)

28 103. Upon information and belief, during all times relevant to this action,

1 Defendants did not provide accurate wage statements throughout the Aggrieved
2 Employees Period and, thus, Plaintiffs assert this claim both as a stand-alone claim
3 and derivative of their unpaid wage claims.

4 104. On numerous occasions, an exact amount by which will be proven at
5 trial, Defendants violated various provisions of § 226, including but not limited to
6 subdivisions (a)(1), (a)(2), (a)(4), (a)(5), (a)(8), and (a)(9) by failing to provide
7 Plaintiffs and the Aggrieved Employees accurate itemized statement in writing
8 accurately showing gross wages earned, total hours worked by the employee, net
9 wages earned, rates of pay, among other things.

10 105. This claim is also premised on Plaintiffs' right to pursue all Labor Code
11 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
12 *USA, Inc.* (2018) 23 Cal.App.5th 745.

13 106. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
14 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
15 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
16 pay period for each subsequent violation in which all culpable Defendants violated
17 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
18 of the applicable penalty is all in an amount to be shown according to proof at trial.

19 107. Wherefore, Plaintiffs request all remedies available to the Aggrieved
20 Employees pursuant to the PAGA.

21 **SIXTH CAUSE OF ACTION**

22 **Representative Claim for Penalties via the PAGA**

23 **For Failure to Maintain Required Records in Violation of California**

24 **Labor Code §§ 1174 and the Applicable Wage Order and/or § 1198**

25 (Against All Defendants)

26 108. As a separate and distinct cause of action, Plaintiff re-alleges and
27 incorporates by reference, as though fully set forth herein, all the allegations
28 contained in this Complaint, excepting those allegations that are inconsistent with this

1 cause of action.

2 109. Section 7 of the applicable Wage Order requires every employer to
3 maintain time and payroll records.

4 110. Plaintiffs are informed and believe and based thereon alleges that during
5 all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders
6 and with Labor Code § 1174 by failing to maintain certain records which employers
7 are required to maintain, including but not limited to, all wage records.

8 111. This claim is also premised on Plaintiffs' right to pursue all Labor Code
9 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
10 *USA, Inc.* (2018) 23 Cal.App.5th 745.

11 112. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
12 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
13 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
14 pay period for each subsequent violation in which all culpable Defendants violated
15 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
16 of the applicable penalty is all in an amount to be shown according to proof at trial.

17 113. For the reasons alleged herein, Plaintiffs seek all available remedies
18 pursuant to the PAGA in an amount to be proven at trial including but not limited to
19 penalties, attorneys' fees, costs, and interest pursuant to law.

20 **SEVENTH CAUSE OF ACTION**

21 **Representative Claim for Penalties via the PAGA Claim for**

22 **Failure to Reimburse Business Expenses**

23 **in Violation of Labor Code §§ 1198 and 2802**

24 **(Against All Defendants)**

25 114. As a separate and distinct cause of action, Plaintiff re-alleges and
26 incorporates by reference, as though fully set forth herein, all the allegations
27 contained in this Complaint, excepting those allegations that are inconsistent with this
28 cause of action.

1 115. Pursuant to California Labor Code § 2802, an employer must indemnify
2 its employees “for all necessary expenditures or losses incurred by the employee in
3 direct consequence of the discharge of his or her duties”

4 116. On information and belief, Plaintiffs made necessary expenditures and
5 incurred losses as a direct consequence of the discharge of their duties and in
6 obedience to the directions of Defendants.

7 117. On information and belief, Defendants knew Plaintiffs were incurring the
8 expenses and were responsible for reimbursing Unreimbursed Expenses Aggrieved
9 Employees for their expenditures and losses as a direct consequence of the discharge
10 of their duties, but failed to do so.

11 118. This claim is also premised on Plaintiffs’ right to pursue all Labor Code
12 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
13 *USA, Inc.* (2018) 23 Cal.App.5th 745.

14 119. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
15 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
16 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
17 pay period for each subsequent violation in which all culpable Defendants violated
18 the applicable Cal. Labor Code provisions alleged in this Complaint, including but not
19 limited to Labor Code §§ 2802 and 1198, the exact amount of the applicable penalty
20 is all in an amount to be shown according to proof at trial, which Plaintiffs seek.

21 120. For the reasons alleged herein, Plaintiffs seek all available remedies
22 pursuant to the PAGA in an amount to be proven at trial including but not limited to
23 penalties, attorneys’ fees, costs, and interest pursuant to law.

1 **EIGHTH CAUSE OF ACTION**

2 **Representative Claim for Penalties via the PAGA**
3 **Under California Labor Code §§ 2698, 2699, *et seq.* for**
4 **Failure to Provide Seating in Violation of**
5 **California Labor Code 1198, and the Applicable Wage Order**
6 **(Against all Defendants)**

7 121. Plaintiffs re-allege and incorporate by reference the foregoing allegations
8 as though set forth herein.

9 122. California Labor Code § 1198 makes it illegal to employ an employee
10 under conditions of labor that are prohibited by the applicable wage order.

11 123. California Labor Code § 1198 requires that “. . . the standard conditions
12 of labor fixed by the commission shall be the . . . standard conditions of labor for
13 employees. The employment of any employee . . . under conditions of labor
14 prohibited by the order is unlawful.”

15 124. The applicable wage order provides that “[a]ll working employees shall
16 be provided with suitable seats when the nature of the work reasonably permits the
17 use of seats.”

18 125. The applicable wage order also provides that “[w]hen employees are not
19 engaged in the active duties of their employment and the nature of the work requires
20 standing, an adequate number of suitable seats shall be placed in reasonable proximity
21 to the work area and employees shall be permitted to use such seats when it does not
22 interfere with the performance of their duties.”

23 126. The nature of Plaintiffs’ job duties permitted them to be seated.

24 127. Furthermore, for Aggrieved Employees whose work duties occasionally
25 required standing, Plaintiffs allege there was not an adequate number of suitable seats
26 in reasonable proximity to the work area to permit employees to use such seats when
27 doing so would not interfere with the performance of their duties.

28 128. Plaintiffs allege Defendants violated California Labor Code § 1198 and

1 the applicable wage order because Defendants provided inadequate seating
2 arrangements.

3 129. Pursuant to the civil penalties provided for in California Labor Code §§
4 2699 (f) and (g), Plaintiffs allege Defendants are liable for civil penalties of one
5 hundred dollars (\$100) for each aggrieved employee per pay period for the initial
6 violation and two hundred dollars (\$200) for each aggrieved employee per pay period
7 for each subsequent violation, plus costs and attorneys' fees for violation of California
8 Labor Code § 1198.

9 130. For the reasons alleged herein, Plaintiffs seek all available remedies
10 pursuant to the PAGA in an amount to be proven at trial including but not limited to
11 penalties, attorneys' fees, costs, and interest pursuant to law.

12 **NINTH CAUSE OF ACTION**

13 **Representative Claim for Penalties via the PAGA**

14 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

15 **Individual and Representative Claim for PAGA Penalties and Wage**

16 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**
17 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,**
18 **203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)**
19 **of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,**
20 **230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)**
21 **of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of**
22 **Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602,**
23 **603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,**
24 **1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the appliable Wage**
25 **Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293,**
26 **1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309,**
27 **1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section**
28 **1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6,**

1 **1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651,**
2 **and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2751, 2800, 2801,**
3 **2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,**
4 **and 6399.7 and the Applicable Wage Order**

5 (Against all Defendants)

6 131. Plaintiffs re-allege and incorporate by reference the foregoing allegations
7 as though set forth herein.

8 132. This claim is premised on Plaintiffs' right to pursue all Labor Code
9 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
10 *USA, Inc.* (2018) 23 Cal.App.5th 745.

11 133. Pursuant to Labor Code § 2699, any provision of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the LWDA or any of its
13 departments, divisions, commissions, boards, agencies or employees for violation of
14 the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself and other current or former
16 employees pursuant to the procedures specified in Labor Code § 2699.3.

17 134. Plaintiffs are informed and believe, and based thereon allege, that
18 because of the acts alleged above and Defendants' violations of the Labor Code
19 provisions alleged herein, Plaintiffs are entitled to penalties under Labor Code §§
20 2698 and 2699.

21 135. Plaintiffs are "aggrieved employees" because Plaintiffs were employed
22 by the alleged violator and had one or more of the alleged violations committed
23 against Plaintiffs, and therefore are properly suited to represent the interests of other
24 current and former Represented Employees.

25 136. Labor Code § 2699(f) imposes upon Defendants, and each of them, civil
26 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for
27 initial violations, and two hundred dollars (\$200) per pay period, per aggrieved
28 employee for subsequent violations for all Labor Code provisions for which a civil

1 penalty is not specifically provided.

2 137. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
3 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
4 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
5 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
6 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
7 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
8 subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551,
9 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970,
10 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the
11 applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290,
12 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
13 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of
14 Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5,
15 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5,
16 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801,
17 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,
18 and 6399.7.

19 138. Labor Code § 558 establishes a civil penalty as follows: Any employer
20 or other person acting on behalf of an employer who violates, or causes to be violated,
21 a section of this chapter or any provision regulating hours and days of work in any
22 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
23 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
24 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
25 which the employee was underpaid in addition to an amount sufficient to recover
26 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
27 each underpaid employee for each pay period for which the employee was underpaid
28 in addition to an amount sufficient to recover underpaid wages; and (3) wages

1 recovered pursuant to this section shall be paid to the affected employee.

2 139. Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs seek to recover
3 attorneys' fees, costs, civil penalties, and wages on behalf of Plaintiff and other
4 current and former Represented Employees as alleged herein in an amount to be
5 shown according to proof at trial and within the jurisdictional limits of this Court.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 8 1. That Defendants be found liable to the Plaintiffs;
- 9 2. For all remedies available to the Plaintiffs under the applicable provisions of
10 the Labor Code via the PAGA, i.e., Labor Code § 2698, *et seq.* including an award of
11 attorneys' fees, costs, interest, liquidated damages, damages, penalties and waiting
12 time penalties according to proof to the extent permitted by law;
- 13 3. For maximum civil penalties available under the Labor Code and applicable
14 Wage Order as described more particularly in this Complaint, including but not
15 limited to penalties pursuant to Labor Code § 558;
- 16 4. That Aggrieved Employees be awarded reasonable attorneys' fees where
17 available by law, including but not limited to pursuant to Labor Code §§ 2698, *et seq.*,
18 Code of Civil Procedure § 1021.5, and/or other applicable laws; and
- 19 5. For any other relief the Court may deem just, proper, and equitable.

20 Dated: April 11, 2023

Law Office of Thomas D. Rutledge

21
22 By: Thomas D. Rutledge
23 /s/Thomas D. Rutledge, Esq.
24 Attorneys for Plaintiffs
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