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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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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

Judge: Hon. Matthew C. Braner
Dept.: 60

**REPRESENTATIVE ACTION
FIRST AMENDED 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.* (2023) 89 Cal.App.5th 786; *Million Seifu v. Lyft, Inc.* (2023) 89
13 Cal.App.5th 1129; *Prostek v. Lincare Inc.* (E.D. Cal. March 21, 2023) 2023 U.S. Dist.
14 LEXIS 48155; *Nickson v. Shemran, Inc.* (2023) 90 Cal.App.5th 121.)

15 **JURISDICTION AND VENUE**

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

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

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

25 **THE PARTIES**

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

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

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

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

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

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

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

1 Plaintiffs are informed and believe, and therefore allege that Defendants issued
2 Plaintiff WILLIAMS and other Aggrieved Employees erroneous wage and earning
3 statements.

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

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

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

16 **Wage Claims.**

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

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

25 26. This claim is also 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.

Failure to Pay Meal and Rest Break Premiums.

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

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

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

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

Unreimbursed Work-Related Expense Claims.

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

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

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. Another victim of Defendants' failure to pay in violation of Labor Code
13 § 203 is Defendants' former employee, Relia Angeles.

14 37. On April 28, 2023, Defendants involuntarily terminated Ms. Angeles,
15 but Defendants did not provide her has last paycheck until May 5, 2023--seven days
16 late.

17 38. When Defendants terminated Plaintiff WILLIAMS, Plaintiff alleges that
18 Defendants failed to pay Plaintiff WILLIAMS all unpaid wages in Plaintiff's final
19 paycheck or in a timely manner pursuant to law.

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

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

25 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

26 41. This wage and hour representative action filed pursuant to PAGA, §§
27 2698, 2699 generally consists of the following group:

28 **All current or former employees Defendants employed in**

1 **California from April 12, 2022 to the present.**

2 42. All members of the represented group are referred to as the “Aggrieved
3 Employees.”

4 43. The “Representative Period” means from **April 12, 2022 to the present.**

5 44. Plaintiff further alleges, on information and belief, that Aggrieved
6 Employees, did not receive all wages due at the time their employment ended with
7 Defendants.

8 45. On information and belief, Defendants current and former employees
9 were subject to wage and hour violations by Defendants, including failing to be paid
10 for all wages due.

11 46. California law provides that an employee may file an action against an
12 employer for penalties in connection with violations of the Labor Code and Wage
13 Orders provided the aggrieved employee file an action on behalf of himself or herself
14 and similarly situated current and former employees.

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

22 48. As set forth in further detail below, because of the analysis and
23 investigation of the Plaintiffs’ claims, Plaintiffs’ attorneys sent the required
24 correspondence to the California Labor and Workforce Development Agency
25 (“LWDA”) and to Defendants informing Defendants of Plaintiffs’ claims and
26 Plaintiffs’ intent to pursue litigation.

27 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

28 49. Pursuant to the PAGA, on **April 12, 2023**, Plaintiffs, *et al.*, via counsel,

1 sent correspondence to the LWDA and Defendants via certified U.S. Mail indicating
2 that Plaintiffs are pursuing the claims alleged in this Complaint.

3 50. The statutory period for Plaintiffs expired for the letter alleged above and
4 the LWDA did not serve Plaintiffs with notice of intent to assume jurisdiction over
5 the applicable penalty claims and did not provide notice as set forth in Labor Code §
6 2699.3(a)(2)(A) within the statutory period.

7 51. Therefore, Plaintiffs have exhausted Plaintiffs' administrative remedies
8 to pursue claims and remedies as authorized by the PAGA.

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

- 11 a. This action involves allegations of violations of provisions of
12 the California Labor Code that provide for a civil penalty to be
13 assessed and collected by the LWDA or any departments,
14 divisions, commissions, boards, agencies, or employees;
15 b. Plaintiffs are "aggrieved employees" because Plaintiffs were
16 employed by the alleged violator and had one or more of the
17 Labor Code violations alleged on this Complaint committed
18 against them; and
19 c. Plaintiffs have satisfied the procedural requirements of
20 Labor Code § 2699.3, as set forth above.

21 **FIRST CAUSE OF ACTION**

22 **Representative Claim via the PAGA for**
23 **Failure to Pay State Minimum/Regular Wages**
24 **in Violation of California Labor Code §§ 200, 227.3, 1194,**
25 **1197, 1811, and 1815, and the applicable Wage Order**
26 **(Against all Defendants)**

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

1 54. Pursuant to Labor Code §§ 200, 1194, 1197, 1197.1, 1811, 1815, and
2 1198, it is unlawful for a California employer to suffer or permit an employee to work
3 without paying wages for all hours worked, as required by the applicable Industrial
4 Welfare Commission (IWC) Wage Order.

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

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

15 57. Plaintiffs are also informed and believe and based thereupon allege that
16 Defendants failed to pay Aggrieved Employees for all vacation/PTO pay they
17 accrued.

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

21 59. During all times relevant, at least one of the IWC Wage Orders applied
22 to Plaintiffs’ employment with Defendants.

23 60. Pursuant to the applicable Wage Order, “hours worked” include the time
24 during which an employee is “suffered or permitted to work, whether or not required
25 to do so.”

26 61. During the proposed Aggrieved Employees Period and based on the
27 misconduct alleged above, Plaintiffs allege Defendants did not pay Plaintiffs and
28 Aggrieved Employees minimum/regular wages for all hours suffered or permitted to

1 work in violation of state and/or local law.

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

5 63. Labor Code § 1194 subdivision (a) permits an action to recover wages
6 because of the payment of a wage less than the minimum wage "applicable to the
7 employee" including attorneys' fees, costs, and interest.

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

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

19 66. As a direct result, Aggrieved Employees have suffered and continue to
20 suffer, substantial losses related to the use and enjoyment of such compensation,
21 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
22 compel Defendants to fully perform their obligations under state and/or local law.

23 67. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
24 them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per
25 pay period for the initial violation and two hundred (\$200.00) for each aggrieved
26 employee per pay period for each subsequent violation in which Defendants violated
27 the minimum wage and/or regular wage provisions of the Labor Code, including but
28 not limited to §§ 216, 218, 218.5, 227.3, 558, 1194, 1197, 1197.1, 1811, 1815,

1 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is all in
2 an amount to be shown according to proof at trial.

3 68. Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
4 seek to recover from Defendants, and each of them, penalties, attorneys' fees, and
5 costs incurred herein.

6 **SECOND CAUSE OF ACTION**

7 **Representative Claim via the PAGA for**

8 **Failure to Pay State Overtime and/or Double-Time Compensation**
9 **in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, 510,**

10 **1182.12, 1194, 1194.2, 1197, 1197.1,**

11 **1811, 1815, and the Applicable IWC Wage Order**

12 **(Against all Defendants)**

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

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

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

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

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

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

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

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

11 77. As alleged herein, Plaintiffs allege Defendants failed to pay Aggrieved
12 Employees all overtime to which they had a right to receive.

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

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

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

26 81. In committing the violations of state law as herein alleged, Defendants
27 have knowingly and willfully refused to perform their obligations to compensate
28 Aggrieved Employees for all wages earned and all hours worked.

82. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which Defendants violated the overtime provisions of the Labor Code, including but not limited to §§ 510, 558 and 1194, the exact amount of the penalties sought is in an amount to be shown according to proof at trial.

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

THIRD CAUSE OF ACTION

Representative Claim via the PAGA for

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

(Against all Defendants)

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

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

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

87. Labor Code § 203 provides, in pertinent part: "If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from

1 the due date thereof at the same rate until paid or until an action therefore is
2 commenced; but the wages shall not continue for more than 30 days. ..."

3 88. Pursuant to Labor Code § 204, "all wages ... earned by any person in
4 any employment are due and payable twice during each calendar month, on days
5 designated in advance by the employer as the regular paydays."

6 89. Pursuant to Labor Code § 204b, "Labor performed by a weekly-paid
7 employee during any calendar week and prior to or on the regular payday shall be
8 paid for not later than the regular payday of the employer for such weekly-paid
9 employee falling during the following calendar week."

10 90. Defendants did not properly pay Plaintiff and Aggrieved Employees
11 pursuant to the requirements of Labor Code, including but not limited to §§ 201,
12 201.3, 202, 203, 204, 204b, 204.2, 210, 218.5, 218.6, 256 and thereby Plaintiffs seek
13 the unpaid wages.

14 91. To date, Defendants have not paid terminated Aggrieved Employees all
15 earned wages as required by law.

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

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

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

1 employee per pay period for each subsequent violation in which Defendants violated
2 the Labor Code, including but not limited to §§ 201, 201.3, 202, 203, 204, 204b,
3 204.2, 210, 218.5, 218.6, 256.

4 95. As alleged above, Defendants have deprived Plaintiffs and Aggrieved
5 Employees of their rightfully earned wages as a direct and proximate result of
6 Defendants' failure and refusal to pay said compensation and for the reasons alleged
7 in this Complaint.

8 96. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
9 Employees pursuant to the PAGA.

10 **FOURTH CAUSE OF ACTION**

11 **Representative Claim for Penalties via the PAGA for** 12 **Failure to Comply with the Meal and Rest Break Requirements Under Labor** 13 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order**

14 (Against all Defendants)

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

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

20 99. Because of Defendants' illegal pay practices, said Defendants failed to
21 pay Plaintiff and Aggrieved Employees for all meal and rest breaks despite their
22 requirement under California law and, as such, all culpable Defendants are required to
23 pay Plaintiff and Aggrieved Employees for rest break and/or meal break premium
24 wages.

25 100. Defendants also failed to provide Plaintiff, and Aggrieved Employees,
26 legally-compliant meal and rest periods, or compensation in lieu thereof, during their
27 employment by said Defendants.

28 101. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a

1 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
2 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
3 pay period for each subsequent violation in which all culpable Defendants violated
4 Cal. Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in
5 an amount to be shown according to proof at trial.

6 102. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
7 Employees pursuant to the PAGA.

8 **FIFTH CAUSE OF ACTION**

9 **Representative Claim for Penalties via the PAGA for**
10 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,**
11 **and the applicable IWC Wage Order**
12 **(Against all Defendants)**

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

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

1 2013, if the employer is a temporary services employer as defined in Section 201.3,
2 the rate of pay and the total hours worked for each temporary services assignment. . .”
3 (Labor Code § 226 subdivision (a).)

4 105. Upon information and belief, during all times relevant to this action,
5 Defendants did not provide accurate wage statements throughout the Aggrieved
6 Employees Period and, thus, Plaintiffs assert this claim both as a stand-alone claim
7 and derivative of their unpaid wage claims.

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

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

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

23 109. Wherefore, Plaintiffs request all remedies available to the Aggrieved
24 Employees pursuant to the PAGA.
25
26
27
28

1 **SIXTH CAUSE OF ACTION**

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

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

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

5 (Against All Defendants)

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

10 111. Section 7 of the applicable Wage Order requires every employer to
11 maintain time and payroll records.

12 112. Plaintiffs are informed and believe and based thereon alleges that during
13 all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders
14 and with Labor Code § 1174 by failing to maintain certain records which employers
15 are required to maintain, including but not limited to, all wage records and meal and
16 rest breaks.

17 113. This claim is also premised on Plaintiffs' 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.

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

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

SEVENTH CAUSE OF ACTION

**Representative Claim for Penalties via the PAGA Claim for
Failure to Reimburse Business Expenses
in Violation of Labor Code §§ 1198 and 2802**

(Against All Defendants)

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

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

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

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

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

121. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated the applicable Cal. Labor Code provisions alleged in this Complaint, including but not limited to Labor Code §§ 2802 and 1198, the exact amount of the applicable penalty

1 is all in an amount to be shown according to proof at trial, which Plaintiffs seek.

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

5 **EIGHTH CAUSE OF ACTION**

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

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

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

15 125. California Labor Code § 1198 requires that “. . . the standard conditions
16 of labor fixed by the commission shall be the . . . standard conditions of labor for
17 employees. The employment of any employee . . . under conditions of labor
18 prohibited by the order is unlawful.”

19 126. The applicable wage order provides that “[a]ll working employees shall
20 be provided with suitable seats when the nature of the work reasonably permits the
21 use of seats.”

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

27 128. The nature of Plaintiffs' job duties permitted them to be seated.

28 129. Furthermore, for Aggrieved Employees whose work duties occasionally

1 required standing, Plaintiffs allege there was not an adequate number of suitable seats
2 in reasonable proximity to the work area to permit employees to use such seats when
3 doing so would not interfere with the performance of their duties.

4 130. Plaintiffs allege Defendants violated California Labor Code § 1198 and
5 the applicable wage order because Defendants provided inadequate seating
6 arrangements.

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

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

16 **NINTH CAUSE OF ACTION**

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

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

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

20 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**

21 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,**
22 **203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)**
23 **of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,**
24 **230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)**
25 **of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of**
26 **Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602,**
27 **603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,**
28 **1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the appliable Wage**

Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2751, 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7 and the Applicable Wage Order

(Against all Defendants)

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

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

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

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

137. Plaintiffs are “aggrieved employees” because Plaintiffs were employed by the alleged violator and had one or more of the alleged violations committed against Plaintiffs, and therefore are properly suited to represent the interests of other current and former Represented Employees.

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

6 139. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
7 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
8 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
9 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
10 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
11 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
12 subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551,
13 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970,
14 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the
15 applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290,
16 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
17 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of
18 Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5,
19 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5,
20 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801,
21 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,
22 and 6399.7.

23 140. Labor Code § 558 establishes a civil penalty as follows: Any employer
24 or other person acting on behalf of an employer who violates, or causes to be violated,
25 a section of this chapter or any provision regulating hours and days of work in any
26 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
27 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
28 violation, fifty dollars (\$50) for each underpaid employee for each pay period for

1 which the employee was underpaid in addition to an amount sufficient to recover
2 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
3 each underpaid employee for each pay period for which the employee was underpaid
4 in addition to an amount sufficient to recover underpaid wages; and (3) wages
5 recovered pursuant to this section shall be paid to the affected employee.

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

10 **PRAYER FOR RELIEF**

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

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

24 Dated: July 9, 2023

Law Office of Thomas D. Rutledge

25
26 By: Thomas D. Rutledge
27 /s/Thomas D. Rutledge, Esq.
28 Attorneys for Plaintiffs

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COUNTY OF SAN DIEGO

I, THOMAS D. RUTLEDGE, the undersigned, am employed in the County of San Diego, State of California; I am over the age of 18 and not a party to the within action; my business address is 16956 Via de Santa Fe, Suite 1847, Rancho Santa Fe, California 92091-4606.

On July 9, 2023, I served the foregoing document(s) described as:

PLAINTIFFS' DEMAND FOR INSPECTION OF DOCUMENTS (SET ONE)
DEFENDANT FAMILY DOLLAR, INC.

on the interested parties to this action by placing a copy thereof enclosed in a sealed envelope addressed as follows: **See Attached List.**

☒ **(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence was deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in San Diego, California.

☒ **(BY E-MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for emailing. This correspondence was sent via email to the recipients' business email addresses identified above.

☐ (BY OVERNIGHT DELIVERY SERVICE) I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

Executed July 9, 2023, at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

THOMAS D. RUTLEDGE
/s/THOMAS D. RUTLEDGE

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