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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES**

ISAAC DIAZ, an individual, on behalf
 of himself and all others similarly
 situated;

Plaintiffs,

vs.

SPROUTS FARMERS MARKET, LLC,
 a California Limited Liability Company;
 and DOES 1 through 100, inclusive,

Defendants.

Case No.

CLASS ACTION

FIRST AMENDED COMPLAINT

- 1. FAILURE TO REIMBURSE
 EMPLOYEE EXPENSES [LAB. CODE §
 2802]**
- 2. UNFAIR COMPETITION [BUS. &
 PROF. CODE § 17200, *et seq.*]**
- 3. PENALTIES PURSUANT TO
 LABOR CODE PRIVATE
 ATTORNEYS GENERAL ACT
 ("PAGA") [Lab. Code §§ 2698, *et*
seq.]**

NOTICE TO DEFENDANTS OF DUTIES TO RETAIN EVIDENCE:

TO ALL DEFENDANTS: Note and adhere to your duties to retain, and not delete or
 destroy, all documents, emails, databases, electronic records, electronically stored
 information, and all other evidence that may be pertinent to this lawsuit, and to cease any

1 destruction or deletion of such evidence that might otherwise take place in the ordinary
2 course of your business or affairs.

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over this action pursuant to Code of Civ. Proc. §
5 410.10 because Plaintiff ISAAC DIAZ was a resident of the State of California while working
6 for Defendant SPROUTS FARMERS MARKET, LLC, a California Limited Liability
7 Company and DOES 1 through 100 (collectively “Defendants”), and Defendants are qualified
8 to do business in California and regularly conduct business in California.

9 2. Venue is proper in this judicial district pursuant to Code of Civ. Proc. §§ 395
10 and 395.5 because Plaintiff, and other persons similarly situated, performed work for
11 Defendant in the County of Los Angeles, Defendant maintains offices and facilities and
12 transact business in the County of Los Angeles, and because Defendant’s unlawful policies
13 and practices that are the subject of this action were applied, at least in part, to Plaintiff, and
14 other persons similarly situated, in the County of Los Angeles.

15 **PLAINTIFF**

16 3. The Class that Plaintiff seeks to represent (the “Class”) is defined as: *Each*
17 *individual employed by SPROUTS FARMERS MARKET, LLC as Store Manager, Assistant*
18 *Store Manager, Service Manager, Perishable Manager, Non-Perishable Manager or Key*
19 *Holder in California at any time during the period beginning four years prior to the*
20 *commencement of this action to present.*

21 4. At all relevant times herein mentioned, Plaintiff ISAAC DIAZ:

- 22 a. Was employed by Defendant as a Store Manager;
23 b. Was a member of the Class identified in paragraph 3, above.

24 **CLASS ALLEGATIONS**

25 5. The persons who comprise the Class are so numerous that joinder with all such
26 persons is impracticable and the disposition of his claims will benefit the parties and the
27 Court. The claims of Plaintiff are typical of the claims of the Class. Plaintiff will fairly and
28 adequately protect the interests of the Class. Plaintiff do not have any interests that are

antagonistic to the Class. Counsel for Plaintiff are experienced, qualified, and generally able to conduct complex class action litigation.

6. This Court should permit this action to be maintained as a class action pursuant to *Code of Civ. Proc.* § 382 for the following reasons:

a. The questions of law and fact common to the Class predominate over any question affecting only individual members;

b. A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;

c. The members of the Class are so numerous that it is impractical to bring all members of the Class before the Court;

d. Plaintiff and the other members of the Class will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;

e. There is a community of interest in obtaining appropriate legal and equitable relief for the common law and statutory violations and other improprieties alleged herein, as well as in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;

f. Without class certification, the prosecution of separate actions by individual members of the Class would create a substantial risk of the following:

i. Inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendants, and/or

ii. Adjudications with respect to the individual members that would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and

g. Defendants have acted, or refused to act, on grounds that are generally

applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class as a whole.

DEFENDANTS

7. Plaintiffs are informed and believe, and based on that information and belief allege, that Defendant SPROUTS FARMERS MARKET, LLC is, and at all relevant times herein mentioned:

- a. Was a duly organized California Limited Liability Company;
- b. Was duly qualified to conduct business, and was conducting business, in the State of California, including the County of Los Angeles; and
- c. Had its principal place of business in California.

8. The true names and capacities, whether individual, corporate, partnership, associate, or otherwise, of Defendants Does 1 through 100, inclusive (“Doe Defendants”), are unknown to Plaintiff who therefore sue these Doe Defendants by such fictitious names pursuant to *Code of Civ. Proc.* § 474. Plaintiff will seek leave to amend this complaint to allege their true names and capacities when they are ascertained.

9. Plaintiff is informed and believes, and based on that information and belief alleges, that the Defendant named in this complaint, including each of the Doe Defendants, is responsible in some manner for one or more of the events and happenings, and proximately caused the injuries and damages, hereinafter alleged.

10. Plaintiff is informed and believes, and based on that information and belief allege, that the Defendant named in this complaint, including each of the Doe Defendants, is, and at all relevant times herein mentioned was, the agent, servant, and/or employee of the Defendant, and that Defendant was acting within the course and scope of his, her, or its authority as the agent, servant, and/or employee of Defendant. Consequently, Defendant is jointly and severally liable to Plaintiff and the other members of the Class for the damages sustained as a proximate result of their conduct.

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FIRST CAUSE OF ACTION
FAILURE TO REIMBURSE EMPLOYEE EXPENSES

[Labor Code § 2802]
(By Plaintiff Against Defendant)

11. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 12, inclusive, of this Complaint.

12. Pursuant to California Labor Code section 2802, Defendant is required to reimburse Plaintiff and the other members of the Class for expenses incurred by them in the performance of their job duties (which may include but are not limited to the following expenses: cell phone usage).

13. At all times relevant herein mentioned, Defendants had a policy and procedure whereby Plaintiff and the other members of the Class were required personally to incur and pay for said expenses during the performance of their employment duties, all without reimbursement from Defendants. Accordingly, Defendant failed to reimburse Plaintiff and the other members of the Class for business expenses incurred as a condition of and in the performance of their job duties, as described above.

14. As a proximate result of the aforementioned violations, Plaintiff and the other members of the Class have suffered damages in amounts presently unknown to them but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

15. Pursuant to Labor Code section 2802, Plaintiff and the other members of the Class are further entitled to recover from Defendant, in addition to the full amount of the expenses they incurred in the course of their job duties, interest thereon and reasonable attorney's fees and costs.

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SECOND CAUSE OF ACTION
FOR UNFAIR COMPETITION

[*Business & Professions Code §§ 17200, et seq.*]

(By Plaintiff and the Plaintiff Class Against Defendant)

16. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 17, inclusive, of this Complaint.

17. Defendants fall within the definition of “person” under *Business & Professions Code* § 17021.

18. By and through the conduct described herein, Defendant engaged in unfair, unlawful, and fraudulent practices, in violation of *Business & Professions Code* §§ 17200, *et seq.*, and thereby deprived Plaintiff and the other members of the Class of fundamental rights and privileges guaranteed to all California employees under the *Labor Code*.

19. By and through their unfair, unlawful, and fraudulent business practices described herein, Defendant obtained valuable property, money, and services from Plaintiff and the other members of the Class and thereby deprived them of valuable rights and benefits guaranteed by law, all to their detriment.

20. All of the acts described herein as violations of, among other things, the *Labor Code* and *Industrial Welfare Commission Wage Orders*, are unlawful and in violation of public policy. Said acts are in addition immoral, unethical, oppressive, and unscrupulous, constituting unfair, unlawful, and fraudulent business practices in violation of *Business & Professions Code* §§ 17200, *et seq.*

21. Plaintiff and the other members of the Class are entitled to, and do seek, such relief as may be necessary to restore to them the money and property that Defendant has unfairly, unlawfully, and fraudulently acquired from them by means of the above-described business practices.

22. Plaintiff and the other members of the Class are further entitled to, and do, seek a declaration that the above-described business practices are unfair, unlawful, and

1 fraudulent and that injunctive relief should issue restraining Defendant from engaging in any
2 of the above-described unfair, unlawful, or fraudulent business practices in the future.

3 23. Plaintiff and the other members of the Class have no plain, speedy, or
4 otherwise adequate remedy at law to redress the injuries which they have suffered as a
5 consequence of the unfair, unlawful, and fraudulent business practices of Defendant. As a
6 result of the unfair, unlawful, and fraudulent business practices described herein, Plaintiff
7 and the other members of the Class have suffered and will continue to suffer irreparable harm
8 unless Defendant is restrained from continuing to engage in these unfair, unlawful, and
9 fraudulent business practices. In addition, Defendant should be required to pay restitution of
10 the unpaid wages to Plaintiff and the other members of the Class, plus prejudgment interest.

11 **THIRD CAUSE OF ACTION**
12 **FOR PENALTIES PURSUANT TO LABOR CODE PRIVATE**
13 **ATTORNEYS GENERAL ACT (“PAGA”)**

14 *[Labor Code §§ 2698, et seq.]*

15 **(By Plaintiff Isaac Diaz and on Behalf of Aggrieved Employees**
16 **Against Defendant)**

17 24. Plaintiff Isaac Diaz realleges and incorporates by reference, as though fully set
18 forth herein, paragraphs 1 through 25, inclusive, of this Complaint.

19 25. This is an enforcement action under the Labor Code Private Attorneys General
20 Act of 2004, California Labor Code Labor Code §§ 2698, et seq. (hereinafter “PAGA” or
21 “the Act”), which expressly establishes that any provision of the California Labor Code that
22 provides for a civil penalty to be assessed and collected by the Labor and Workforce
23 Development Agency (“LWDA”), or any of its departments, divisions, commissions, boards
24 agencies or employees for a violation of the Labor Code, may be recovered through a civil
25 action brought by an aggrieved employee on behalf of himself or herself, and other current
26 or former employees.

27 26. Whenever the LWDA, or any of its departments, divisions, commissions,
28 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action

is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

27. Plaintiff Isaac Diaz and all other individuals employed by Defendant as a Store Manager, Assistant Store Manager, Service Manager, Perishable Manager, Non-Perishable Manager or Key Holder in California at any time during the period commencing 14 months prior to the commencement of this action to present, are “Aggrieved Employees,” as defined by Labor Code § 2699, in that one or more of the violations alleged herein was committed against them, and each of them.

28. At all times relevant herein mentioned, Defendant had a policy and procedure whereby Plaintiff Isaac Diaz and the Aggrieved Employees were required to personally incur and pay for (cell phone (or similar device) usage) business expenses incurred as a condition of and in the performance of their job duties, as described above in violation of California Labor Code section 2802, for which Plaintiff seeks on behalf of the State of California, himself and all other aggrieved employees, the recovery of civil penalties under Labor Code section 2699(f), plus an award of attorney fees as authorized by Labor Code section 2699(g), and all other applicable penalties.

29. On or about <<<<<ADD>>>>>, Plaintiff Isaac Diaz electronically submitted his PAGA claim with the LWDA and was assigned Case Number LWDA-CM-<<<<<ADD>>>>>. A true and correct copy of the State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation is attached hereto as Exhibit 1.

30. On or about <<<<<ADD>>>>>, Plaintiff Isaac Diaz submitted his PAGA Notice Letter to the LWDA *Via Electronic Submission*: <https://dir.tfaforms.net/308> and transmitted to Defendants SPROUTS FARMERS MARKET, LLC and Rite Aid Corporation his PAGA Notice Letter *Via Certified Mailing No.*: <<<<<ADD>>>>>. A true and correct copy of Plaintiff Isaac Diaz’s PAGA Notice Letter is attached hereto as Exhibit 2.

31. A true and correct copy of the Proof of Delivery of the PAGA Notice letter to Defendants is attached hereto as Exhibit 3.

32. Because more than sixty-five (65) days have passed since Plaintiffs submitted their PAGA claim notice to Defendant and the LWDA without the LWDA having responded to the notice, Plaintiffs are entitled, as a matter of right, pursuant to Labor Code section 2699.3(a)(2)(A) and (C), to amend their Complaint to include a cause of action for penalties pursuant to PAGA.

PRAYER

WHEREFORE, Plaintiff and the other members of the Class pray for judgment as follows:

1. **On the First Cause of Action:**

- a. For damages;
- b. For reimbursement of expenses; and,
- e. For all applicable penalties.

2. **On the Second Cause of Action:**

- a. For restitution; and,
- d. For injunctive relief.

3. **On the Third Cause of Action:**

- a. For the recovery of all applicable civil penalties.

4. **On All Causes of Action:**

- a. For prejudgment interest;
- b. For an award reasonable attorney's fees, costs, and expenses; and
- c. For such other and further relief as this Court deems just and proper.

Dated: April 7, 2023

**ARIAS SANGUINETTI WANG
& TORRIJOS LLP**

By: _____
MIKE ARIAS
CRAIG S. MOMITA
M. ANTHONY JENKINS

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff and the other members of the Class hereby demand a trial by jury on all claims so triable.

Dated: April 7, 2023

**ARIAS SANGUINETTI WANG
& TORRIJOS LLP**

By: _____
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