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Per local Rule, This case is assigned to
Judge Treat, Charles S, for all purposes.

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Attorneys for Plaintiff and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

SHYLA THIERRY, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

BAKEMARK USA LLC, a Delaware
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: C23-01818

**REPRESENTATIVE PAGA ACTION
COMPLAINT FOR VIOLATION OF LABOR
CODE § 2698, *ET SEQ.***

DEMAND OVER \$25,000.00

SUMMONS ISSUED

1 Plaintiff Shyla Thierry (“Plaintiff”) submits this PAGA Action Complaint (“Complaint”)
2 against Defendant Bakemark USA LLC (“Defendant”) and DOES 1 through 50 (collectively
3 referred to as “Defendants”), on behalf of herself and other aggrieved employees of Defendants,
4 for penalties pursuant to the California Labor Code and the Private Attorneys General Act
5 (“PAGA”), as follows:

6 **INTRODUCTION**

7 1. This Complaint is within the Court’s jurisdiction under California Labor Code §§
8 204, 226, and 2698, *et seq.*, and the applicable Wage Orders of the California Industrial Welfare
9 Commission (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees in Defendants’ failure to pay wages in a timely manner
15 and provide accurate itemized wage statements to Plaintiff and other employees.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 have engaged in, among other things a system of willful violations of the California Labor Code
18 by creating and maintaining policies, practices, and customs that knowingly deny employees the
19 above stated rights and benefits.

20 **JURISDICTION AND VENUE**

21 5. The Court has jurisdiction over the violations of California Labor Code §§ 204,
22 226, and 2698, *et seq.*

23 6. Venue is proper in Contra County because Plaintiff worked for Defendants in
24 various locations in Contra Costa County, including Antioch, California and Walnut Creek,
25 California.

26 **PARTIES**

27 7. Plaintiff is a former employee of Defendant. Plaintiff was employed by
28 Defendant from about May 2, 2022, until on or about May 12, 2023. During her employment

1 with Defendant, Plaintiff worked in the role of Outside Sales of Baked Goods, which required
2 traveling to various locations across the Bay Area.

3 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
4 complained of in this action in ways that have deprived her of the rights guaranteed by California
5 Labor Code §§ 204, 226, and 2698, *et seq.*

6 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
7 Bakemark USA LLC was and is a Delaware limited liability company doing business in the State
8 of California and in the County of Contra Costa.

9 10. Plaintiff is informed and believes, and based thereon alleges, that at all times
10 herein mentioned Defendants, are and were corporations, business entities, individuals, and
11 partnerships, licensed to do business and actually doing business in the State of California. As
12 such, and based upon all the facts and circumstances incident to Defendants' business,
13 Defendants are subject to the California Labor Code.

14 11. Plaintiff does not know the true names or capacities, whether individual, partner,
15 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
16 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
17 complaint when the true names and capacities are known. Plaintiff is informed and believes and
18 based thereon alleges that each of said fictitious defendants was responsible in some way for the
19 matters alleged herein and proximately caused Plaintiff and aggrieved employees to be subject to
20 the illegal employment practices, wrongs, and injuries complained of herein.

21 12. At all times herein mentioned, each of said Defendants participated in the doing
22 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
23 Defendants, and each of them, were the agents, servants, and employees of each of the other
24 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
25 acting within the course and scope of said agency and employment.

26 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
27 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
28 joint venturer of, or working in concert with each of the other co-Defendants and was acting

1 within the course and scope of such agency, employment, joint venture, or concerted activity.

2 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
3 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
4 Defendants.

5 14. At all times herein mentioned, Defendants, and each of them, were members of,
6 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
7 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

8 15. At all times herein mentioned, the acts and omissions of various Defendants, and
9 each of them, concurred and contributed to the various acts and omissions of each and all of the
10 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
11 herein mentioned, Defendants, and each of them, ratified each and every act or omission
12 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
13 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
14 damages as herein alleged.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

17 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
18 **AGAINST ALL DEFENDANTS)**

19 16. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
20 though fully set forth herein.

21 17. Plaintiff brings this cause of action as a proxy for the State of California, and in
22 this capacity, seeks penalties on behalf of all Aggrieved Employees from May 22, 2022, through
23 the present, for Defendant's violations of Labor Code §§ 204 and 226, arising from Defendants'
24 policy and practice of (a) failing to timely pay all earned wages in violation of Labor Code §
25 204, and (b) failing to provide accurate itemized wage statements in violation of Labor Code §
26 226.

27 18. Defendants failed in their affirmative obligation to timely pay wages to Plaintiff
28 and Aggrieved Employees in violation of Labor Code § 204. Pursuant to Labor Code § 204, all

1 earned wages must be paid by the time limits as set forth in Section 204.

2 19. As a pattern and practice, Defendants had a consistent policy of paying the wages
3 of Plaintiff and Aggrieved Employees beyond the time limits as allowed pursuant to Labor Code
4 § 204. For example, during the pay period of March 5, 2023, to April 1, 2023, the wages earned
5 during such pay period were not paid until April 28, 2023, based on the pay period and pay dates
6 as identified on the wage statements.

7 20. Furthermore, to the extent that Defendants' pay period and pay dates as listed on
8 the wage statements are inaccurate, Defendants also failed to provide accurate records in
9 violation of Labor Code § 226(a). The pay period and pay dates as displayed on the wage
10 statement do not correspond to the actual pay period and pay dates of Defendants' payroll policy.

11 21. Based on the above-stated Labor Code violations, Plaintiff is an "aggrieved
12 employee" as defined in Labor Code § 2699(a). As such, Plaintiff brings this cause of action on
13 behalf of the State of California for violations committed against all similarly situated Aggrieved
14 Employees of Defendants.

15 22. On or about May 22, 2023, Plaintiff sent written notice to the California Labor &
16 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code §§ 204
17 and 226, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA").
18 As of the date of the filing of this Complaint, the LWDA has yet to provide notice to Plaintiff as
19 to whether it intends to investigate the Labor Code violations provided for in Plaintiff's written
20 notice. In addition to the LWDA, Plaintiff also sent her written notice to Defendant via certified
21 mail according to Labor Code § 2699.3.

22 23. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
23 applicable civil penalties for Defendants' violation of Labor Code §§ 204 and 226, for the time
24 period described above, on behalf of herself and other Aggrieved Employees.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
27 this suit is brought against Defendants, jointly and severally, as follows:

28 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to

1 Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

2 2. On all causes of action, for attorneys' fees and costs as provided by California
3 Labor Code § 2699, and Code of Civil Procedure § 1021.5; and

4 3. For such other and further relief the Court may deem just and proper.
5

6 DATED: July 24, 2023

DIVERSITY LAW GROUP, P.C.

7
8 By: 

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Mai Tulyathan

Attorneys for Plaintiff and Aggrieved Employees
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