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Attorneys for Plaintiff MARIA DEL CARMEN CHAN CUJUY,
on behalf of herself and current and former aggrieved employees,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

MARIA DEL CARMEN CHAN CUJUY, on
behalf of herself and current and former aggrieved
employees,

Plaintiff,

vs.

AESTHETIC MAINTENANCE
CORPORATION; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: **23STCV21155**

PAGA ACTION

**PLAINTIFF MARIA DEL CARMEN
CHAN CUJUY'S COMPLAINT FOR:**

- 1. CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff MARIA DEL CARMEN CHAN CUJUY ("Plaintiff"), who
alleges and complains against Defendants AESTHETIC MAINTENANCE CORPORATION; and
DOES 1 to 100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all
hours worked at minimum wage; failure to authorize or permit all legally required and/or

1 compliant meal periods or pay meal period premium wages; failure to timely pay earned wages
2 during employment, statutory penalties for failure to provide accurate wage statements; statutory
3 waiting time penalties in the form of continuation wages for failure to timely pay employees all
4 wages due upon separation of employment. Plaintiff seeks on a representative basis, following
5 notice to the Labor and Workforce Development Agency, civil penalties, reasonable attorneys'
6 fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State
7 of California, and others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to Los Angeles County at 1628 Palo Alto St., Los Angeles,
17 CA 90026.

18 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
19 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
20 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
21 tolled from April 6, 2020, until October 1, 2020.

22 **III. PARTIES**

23 4. Plaintiff brings this action as a representative of the Labor and Workforce
24 Development Agency on behalf of herself and other current and former employees subject to
25 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
26 filed include current, former and/or future employees of Defendants who work, worked, or will
27 work for Defendants as direct employees as well as temporary employees employed through temp
28 agencies as hourly non-exempt employees in California. At all times mentioned herein, the

1 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
2 employed by Defendants in an hourly position at Defendants' location in Los Angeles from
3 approximately November 2016 until on or about September 6, 2023.

4 5. Plaintiff is informed and believes and thereon alleges that Defendant AESTHETIC
5 MAINTENANCE CORPORATION is authorized to do business within the State of California
6 and is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all
7 times relevant hereto were persons acting on behalf of Defendant AESTHETIC MAINTENANCE
8 CORPORATION in the establishment of, or ratification of, the aforementioned illegal wage and
9 hour practices or policies. Defendant AESTHETIC MAINTENANCE CORPORATION operates
10 in Los Angeles County and employed Plaintiff and aggrieved employees in Los Angeles County,
11 including but not limited to, at 1628 Palo Alto St., Los Angeles, CA 90026.

12 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
13 through 50 are corporations, or are other business entities or organizations of a nature unknown to
14 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
15 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
16 working conditions of employment of Plaintiff and aggrieved employees.

17 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
18 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
19 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
20 supervisor, independent contractor and/or employee of each defendant who violated or caused to
21 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
22 the Industrial Welfare Commission's wage orders regulating hours and days of work.

23 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
24 sues said defendants by said fictitious names, and will amend this complaint when the true names
25 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
26 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
27 named defendants is in some manner responsible for the events and allegations set forth in this
28 complaint.

9. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION

**CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF
2004, LABOR CODE SECTIONS 2698, ET SEQ.**

(Against all Defendants by Plaintiff)

10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11. During Plaintiff's employment and continuing through the present, Plaintiff alleges Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 512, 1194, 1197, and the applicable Wage Orders.

12. Specifically, Defendants have committed the following violations of California Labor Code:

13. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

14. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the Wage Orders.

15. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

1 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
2 non-exempt employees to arrive 30 minutes prior to the start of their shift to gather, organize, and
3 load cleaning products and tools onto carts;

4 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
5 non-exempt employees to complete jobs after clocking out for the end of their shift;

6 (c) “Rounding down” or “shaving down” Plaintiffs’ and other current and former
7 aggrieved California-based hourly non-exempt employees’ daily hours worked at the time of their
8 clock-ins and clock-outs, including clock-ins and clock-outs for meal breaks, to the nearest quarter
9 of an hour, to the benefit of Defendants; and

10 (d) Automatically deducting 30 minutes from Plaintiff’s and other current and former
11 aggrieved California-based hourly non-exempt employees’ daily hours worked and attributing that
12 time to a meal break despite that Defendants routinely failed to provide Plaintiff and other current
13 and former aggrieved California-based hourly non-exempt employees’ meal breaks and/or duty-
14 free meal breaks.

15 16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
16 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants’
17 control without paying wages for that time. This resulted in Plaintiff and other current and former
18 aggrieved California-based hourly non-exempt employees working time for which they were not
19 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
20 Wage Order.

21 17. **Failure to pay wages to hourly non-exempt employees for workdays that**
22 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
23 current and former aggrieved California-based hourly non-exempt employees regularly worked
24 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

25 18. California law requires an employer to authorize or permit an employee an
26 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
27 all duties and the employer relinquishes control over the employee’s activities prior to the
28 employee’s sixth hour of work. Labor Code sections 226.7, 512; Wage Order 5 at §11; *Brinker*

1 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
2 employee for a work period of more than ten (10) hours per day without providing the employee
3 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
4 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
5 shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal
6 period is only permitted when: (1) the nature of the work prevents an employee from being
7 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

8 19. If an employer fails to provide an employee a meal period in accordance with the
9 law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay
10 for each workday that a legally required and compliant meal period was not provided. Labor Code
11 section 226.7; Wage Order 5 at §11.

12 20. In this case, Defendants failed to authorize or permit legally required and compliant
13 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
14 exempt employees due to Defendants’ policies, practices, and/or procedures, including but not
15 limited to:

16 (a) “Rounding” or “shaving” Plaintiffs’ and other current and former aggrieved
17 California-based hourly non-exempt employees’ daily hours worked at the time of their clock-ins
18 and clock-outs for meal breaks, to the nearest quarter of an hour, to the benefit of Defendants; and

19 (b) Automatically deducting 30 minutes from Plaintiff’s and other current and former
20 aggrieved California-based hourly non-exempt employees’ daily hours worked and attributing that
21 time to a meal break despite that Defendants routinely failed to provide Plaintiff and other current
22 and former aggrieved California-based hourly non-exempt employees meal breaks and/or duty-
23 free meal breaks.

24 21. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
25 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
26 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
27 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
28 employees did not receive legally required and compliant meal periods, in violation of Labor Code

1 section 226.7.

2 22. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
3 and other current and former aggrieved California-based hourly non-exempt employees not
4 receiving wages to compensate them for workdays during which Defendants did not provide them
5 with meal periods in compliance with California law.

6 23. **Failure to timely pay earned wages during employment:** In California, wages
7 must be paid at least twice during each calendar month on days designated in advance by the
8 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
9 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
10 16th and the 26th day of that month and wages earned between the 16th and the last day,
11 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
12 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
13 paid within seven (7) calendar days following the close of the payroll period in which wages were
14 earned. Labor Code section 204(d).

15 24. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
16 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
17 exempt employees' earned wages (including minimum wages, and/or meal period premium
18 wages), in violation of Labor Code section 204. Defendants' aforementioned policies, practices,
19 and/or procedures resulted in their failure to pay Plaintiff's and other current and former aggrieved
20 California-based hourly non-exempt employees' their earned wages within the applicable time
21 frames outlined in Labor Code section 204.

22 25. **Failure to provide complete and accurate wage statements:** Labor Code section
23 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
24 employee his or her wages, the employer must "furnish each of his or her employees ... an
25 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
26 employee, except for any employee whose compensation is solely based on a salary and who is
27 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
28 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable

1 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
2 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
3 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
4 name of the employee and his or her social security number, (8) the name and address of the legal
5 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate by the employee.”

7 26. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
8 and other current and former aggrieved California-based hourly non-exempt employees all wages
9 earned (including minimum wages, and/or meal period premium wages) rendered Plaintiff’s and
10 other current and former aggrieved California-based hourly non-exempt employees’ wage
11 statements inaccurate, in violation of Labor Code section 226.

12 27. **Failure to pay employees all wages due at time of termination/resignation:** An
13 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
14 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
15 hours of resignation (Labor Code section 202).

16 28. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
17 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
18 all their earned wages (including minimum wages, and/or meal period premium wages),
19 Defendants failed to pay those employees timely after each employee’s termination and/or
20 resignation, in violation of Labor Code sections 201, 202, and 203.

21 29. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
22 employee, on behalf of himself or herself and other current or former employees, to bring a civil
23 action to recover civil penalties against all Defendants pursuant to the procedures specified in
24 Labor Code section 2699.3.

25 30. Plaintiff has complied with the procedures for bringing suit specified in Labor
26 Code section 2699.3. On June 26, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA and
27 provided notice to Defendants by certified mail which provided notice of the specific provisions of
28 the Labor Code alleged to have been violated, including the facts and theories to support the

violations alleged.

31. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by certified mail to the parties that it intends to investigate the alleged violations of the Labor Code within 60 days of the date of the complainant's written notice. The LWDA failed to provide the parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends to investigate Plaintiff's claims.

32. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 512, 1194, and 1197, During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, and 512; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1].

33. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with her claims for civil penalties.

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PRAYER FOR RELIEF

**WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER
AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to section 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate

Dated: September 1, 2023

Respectfully submitted,
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By:



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