

Harris Emran (SBN 329674)
Kaitlin Martinez (SBN 348006)
EMRAN LAW FIRM
415 Mission Street, 37th Floor
San Francisco, California 94105
Office: (415) 890-0041
Email: Harris@Emranlaw.com
Kaitlin@Emranlaw.com

Attorneys for Plaintiff,
Mansoor Sharifi

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

MANSOOR SHARIFI, in his representative
capacity on behalf of himself, the State of
California, and all other similarly situated
current and former aggrieved employees,

Plaintiff,

vs.

THRIFTY PAYLESS, INC., RITE AID
CORPORATION, and DOES 1-25

Defendants.

Case No. 23-CIV-04281

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

Plaintiff MANSOOR SHARIFI ("PLAINTIFF"), in his representative capacity on behalf of himself, the State of California, and fellow current and former AGGRIEVED EMPLOYEES, defined below, against Defendant THRIFTY PAYLESS, INC., Defendant RITE AID CORPORATION, and DOES 1-25 ("Defendant DOES") (collectively "DEFENDANTS"), allege on information and belief, except for their own acts and knowledge which are based on personal knowledge, the following:

Electronically
FILED
by Superior Court of California, County of San Mateo
ON **9/12/2023**
By /s/ Salote Alipate
Deputy Clerk

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I. INTRODUCTION

1. PLAINTIFF bring this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former AGGRIEVED EMPLOYEES of DEFENDANTS for engaging in a pattern and practice of wage and hour violations under the California Labor Code.

2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS decreased their employment-related costs by systematically violating California wage and hour laws.

3. DEFENDANTS’ systematic pattern of wage and hour and IWC Wage Order violations toward PLAINTIFF and other AGGRIEVED EMPLOYEES in California include, *inter alia*:

- a. Failure to provide rest periods;
- b. Failure to pay all regular and overtime wages;
- c. Failure to provide accurate payroll records;
- d. Failure to provide accurate itemized wage statements;

4. PLAINTIFF brings this representative action against DEFENDANTS on behalf of himself and all other AGGRIEVED EMPLOYEES in California, seeking all civil penalties and unpaid wages permitted pursuant to California Labor Code § 2699, *et seq.*

5. PLAINTIFF reserves the right to name additional representatives throughout the State of California.

II. PARTIES

6. Plaintiff MANSOOR SHARIFI (“PLAINTIFF”), an individual, has resided, and at all times mentioned in this Complaint, continues to reside in Contra Costa County.

7. Defendant THRIFTY PAYLESS, INC (“DEFENDANT THRIFTY”) is a California corporation, registered with the California Secretary of State as Entity No. 1808302, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

8. Defendant RITE AID CORPORATION is a California corporation, registered with the California Secretary of State as Entity No. 2367993, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

1 9. Defendants DOES 1-25 (“Defendant DOES”) are persons and/or entities that at all relevant
2 times mentioned herein conducted and continue to conduct substantial and regular business
3 throughout California.

4 10. DEFENDANTS own, operate, and/or manage pharmaceutical stores throughout the United
5 States.

6 11. DEFENDANTS have employed PLAINTIFF since approximately August 2021 through the
7 present date at Defendant Thrifty’s Rite Aid in the City of Pleasant Hill in Alameda County,
8 California.

9 12. At all times, DEFENDANT RITE AID paid PLAINTIFF on an hourly basis.

10 13. PLAINTIFF bring this action in his representative capacity on behalf of the State of
11 California and on behalf of all individuals who are or previously were employed by DEFENDANTS
12 in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698
13 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for DEFENDANTS between
14 June 30, 2022, and the present (“PAGA PERIOD”).

15 14. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code §
16 2699(c) because he was employed by DEFENDANTS and suffered one or more of the alleged Labor
17 Code violations committed by DEFENDANTS.

18 15. PLAINTIFF and all other AGGRIEVED EMPLOYEES are, and at all relevant times were,
19 employees of DEFENDANTS, within the meanings set forth in the California Labor Code and the
20 applicable Industrial Welfare Commission Wage Order.

21 16. Each of the fictitiously named defendants participated in the acts alleged in this Complaint.
22 The true names and capacities of the defendants named as DOES 1 THROUGH 25, inclusive, are
23 presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint, setting forth the true
24 names and capacities of these fictitiously named defendants when their true names are ascertained.
25 PLAINTIFF is informed and believe, and on that basis alleges, that each of the fictitious defendants
26 has participated in the acts alleged in this Complaint.

27 17. DEFENDANTS, including DOES 1 THROUGH 25, were PLAINTIFF’S employers or
28 persons acting on behalf of PLAINTIFF’S employer, within the meaning of California Labor Code

1 § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor
2 Code or any provision regulating hours and days of work in any order of the Industrial Welfare
3 Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth in
4 Labor Code § 558, at all relevant times.

5 18. DEFENDANTS were PLAINTIFF’S employer or persons acting on behalf of PLAINTIFF’S
6 employer either individually or as an officer, agent, or employee of another person, within the
7 meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage
8 less than the minimum fixed by California state law, and as such, are subject to civil penalties for
9 each underpaid employee.

10 **III. JOINT EMPLOYER**

11 19. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to enforce any
12 provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* § 2699(a).)

13 20. Section 558 of the California Labor Code provides that “any employer *or other person* acting
14 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
15 provision regulating hours and days of work in any order of the Industrial Welfare Commissions
16 shall be subject to a civil penalty...” (*Lab. Code* § 558(a).)

17 21. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person* acting
18 either individually or as an officer, agent, or employee of another person, who pays or causes to be
19 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by
20 an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

21 22. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held that a
22 corporate employer’s owners, officers and directors, are subject to civil penalties for the employer’s
23 failure to pay appropriate wages to its employees, and, since liability under either 558 or 1197.1
24 does not depend on a finding of an alter ego, no alter ego allegations or findings are necessary.
25 *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v. Cjaders Food*,
26 *Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203 Cal.App.4th 1112,
27 1145-1146.

1 23. PLAINTIFF is informed and believe, and thereon alleges, that DEFENDANTS, and each of
2 them, are subject to civil penalties for their failure to pay PLAINTIFF and other AGGRIEVED
3 EMPLOYEES the appropriate wages as complained of herein and proximately caused the
4 complaints, injuries, and damages alleged herein.

5 24. At all relevant times, each DEFENDANT, whether named or fictitious, was the agent,
6 employee or other person acting on behalf of each other Defendant, and, in participating in the acts
7 alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts
8 of the other.

9 25. Each DEFENDANT, whether named or fictitious, exercised control over PLAINTIFF'
10 wages, working hours, and/or working conditions.

11 26. Each Defendant, whether named or fictitious, acted in all respects pertinent to this action as
12 the agent of the other DEFENDANTS, carried out a joint scheme, business plan or policy, and the
13 acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

14 **IV. JURISDICTION AND VENUE**

15 27. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure,
16 Section 410.10.

17 28. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395
18 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and DEFENDANTS (i)
19 currently maintain and at all relevant times maintained offices and facilities in this County, and (ii)
20 committed the wrongful conduct herein alleged in this County against PLAINTIFF and the
21 AGGRIEVED EMPLOYEES.

22 **III. FACTUAL ALLEGATIONS**

23 **A. Rest Period Violations**

24 29. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to work in
25 excess of four (4) hours without providing a ten (10) minute rest period as a result of
26 DEFENDANTS' policies and practices and understaffing.

27 30. PLAINTIFF and other AGGRIEVED EMPLOYEES, from time-to-time, were required to
28 work in excess of eight (8) hours or more, without being provided a second ten (10) minute rest

1 period.

2 31. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with one-hour
3 wages *in lieu* thereof.

4 32. As a result of DEFENDANTS' policies and DEFENDANTS' inadequate staffing,
5 PLAINTIFF and other AGGRIEVED EMPLOYEES were denied their proper rest periods by
6 DEFENDANTS and DEFENDANTS' managers.

7 B. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

8 33. During PLAINTIFF'S employment and during the PAGA PERIOD, DEFENDANTS failed
9 to accurately pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all hours worked.

10 34. Specifically, PLAINTIFF and other AGGRIEVED EMPLOYEES were regularly required
11 to forfeit rest periods and continue performing off-the-clock work. PLAINTIFF and other
12 AGGRIEVED EMPLOYEES were unable to take off-duty rest breaks and were not fully relieved
13 of duty for rest periods. PLAINTIFF and other AGGRIEVED EMPLOYEES were required to
14 perform work as ordered by DEFENDANTS for more than four (4) hours during a shift without
15 receiving an off-duty rest break.

16 35. Further, PLAINTIFF is regularly required to forfeit rest periods to complete a new heavier
17 workload during his same shift duration. PLAINTIFF is unable to take off-duty rest breaks and is
18 not fully relieved of duty for rest periods. PLAINTIFF is required to perform work as ordered by
19 DEFENDANTS for more than four (4) hours during a shift without receiving an off-duty rest break.

20 36. DEFENDANTS failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES
21 necessary wages for attending and performing work at DEFENDANTS' direction, request and
22 benefit, while off-the clock.

23 37. DEFENDANTS directed and directly benefited from the uncompensated off-the-clock work
24 performed by PLAINTIFF and other AGGRIEVED EMPLOYEES.

25 38. DEFENDANTS controlled the work schedules, duties, protocols, applications, assignments,
26 and employment conditions of PLAINTIFF and other AGGRIEVED EMPLOYEES.

27 39. DEFENDANTS were able to track the amount of time PLAINTIFF and other AGGRIEVED
28 EMPLOYEES spent working; however, DEFENDANTS failed to document, track, or pay

1 PLAINTIFF and other AGGRIEVED EMPLOYEES all wages earned and owed for all the work
2 they performed, including during off-the-clock work.

3 40. PLAINTIFF and other AGGRIEVED EMPLOYEES were non-exempt employees, subject
4 to the requirements of the California Labor Code.

5 41. DEFENDANTS' policies and practices deprived PLAINTIFF and other AGGRIEVED
6 EMPLOYEES of all regular and/or overtime wages owed for the off-the-clock work activities.

7 42. DEFENDANTS knew or should have known that PLAINTIFF and other AGGRIEVED
8 EMPLOYEES' off-the-clock work was compensable under the law.

9 43. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited wages due them
10 for all hours worked at DEFENDANTS' direction, control and benefit for the time spent while off-
11 the-clock. DEFENDANTS have a uniform policy and practice to not pay PLAINTIFF and the
12 AGGRIEVED EMPLOYEES' wages for all hours worked in accordance with applicable law.

13 44. Moreover, DEFENDANTS also provided PLAINTIFF and other AGGRIEVED
14 EMPLOYEES with a paystub that failed to comply with Cal. Lab. Code § 226.

15 45. To date, DEFENDANTS have not fully paid PLAINTIFF and other AGGRIEVED
16 EMPLOYEES the regular or overtime compensation still owed to them, or any penalty wages owed
17 to them under Cal. Lab. Code § 203.

18 C. Inaccurate Itemized Wage Statements

19 46. California Labor Code Section 226 requires an employer to furnish its employees an accurate
20 itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the
21 number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
22 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
23 employee and only the last four digits of the employee's social security number or an employee
24 identification number other than a social security number, (8) the name and address of the legal
25 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate by the employee

27 47. During the entirety of PLAINTIFF's employment with DEFENDANTS and during the
28 PAGA Period, when PLAINTIFF and other AGGRIEVED EMPLOYEES were not paid missed rest

1 period premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide
2 PLAINTIFF and other AGGRIEVED EMPLOYEES with complete and accurate wage statements
3 which failed to show, among other things, the total hours worked and all applicable hourly rates in
4 effect during the pay period and the corresponding amount of time worked at each hourly rate,
5 correct rates of pay for penalty payments or missed meal and rest periods, overtime pay.

6 48. For instance, when PLAINTIFF or other AGGRIEVED EMPLOYEES missed rest periods
7 and/or performed off-the-clock work, the compensation did not accurately reflect the requirements
8 for pay in the state of California. DEFENDANTS violated California Labor Codes section 226 by
9 failing to list this remuneration, or the applicable hourly rate and the corresponding number of hours
10 worked at the applicable hourly rate for this remuneration.

11 49. DEFENDANTS routinely failed to keep, maintain, and store accurate payroll records and
12 provide wage statements that comply with Cal. Lab. Code § 226.

13 50. PLAINTIFF and other AGGRIEVED EMPLOYEES suffered damages as a result of
14 DEFENDANTS' aforementioned violation because he could not promptly and easily determine
15 from the wage statement alone the applicable hourly rate and the corresponding number of hours
16 worked at the applicable hourly rate for this remuneration.

17 51. As a result, DEFENDANTS issued PLAINTIFF and other AGGRIEVED EMPLOYEES
18 with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS' violations are
19 knowing and intentional, and were not isolated or due to an unintentional payroll error due to clerical
20 or inadvertent mistake.

21 **IV. CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**

23 For Unfair Competition
(Cal. Bus. & Prof. Code §§ 17200 et seq.)
(Against All DEFENDANTS)

24 52. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every
25 allegation set forth above.

26 53. PLAINTIFF seeks to enforce important rights affecting the public interest within the
27 meaning of Code of Civil Procedure section 1021.5.

28 54. California's public policy is to protect employees by mandating that employees receive a

1 rest period of not less than 10 minutes or one-hour wages in lieu thereof.

2 55. Defendants' failure to provide meal and rest periods has been and continues to be, unfair,
3 unlawful, and harmful to PLAINTIFF and the general public.

4 56. A violation of California Business & Professions Code sections 17200 et seq. may be
5 predicated on the violation of any state or federal law. Defendants' violations, as alleged herein,
6 including Cal. Lab. Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 515, 1174.5, are violations
7 of California law, and constitute unlawful business acts and practices in violation of California
8 Business & Professions Code sections 17200 et seq.

9 57. PLAINTIFF is a wage worker dependent on DEFENDANTS for his livelihood and does not
10 have the same bargaining advantage as his employer.

11 58. DEFENDANTS controlled the activities of all employee labor, including
12 PLAINTIFF. DEFENDANTS thereby saved on employment costs by paying less than the total
13 reimbursements owed to PLAINTIFF.

14 59. Throughout the time relevant to this action, DEFENDANTS failed and/or refused to abide
15 by these long-standing employee protections, including the guarantees of proper meal or rest periods
16 or an additional hour of pay.

17 60. Under its unlawful scheme, DEFENDANTS evaded its other legal responsibilities as an
18 employer and instead systematically saved on costs at the expense of PLAINTIFF.

19 61. With this unlawful scheme, DEFENDANTS unjustly appropriated for itself significant
20 amounts of money that it otherwise should have paid to employees as wages.

21 62. DEFENDANTS reduced wages due, in violation of Labor Code section 226.7.

22 63. DEFENDANTS' unfair business practices have reaped undue benefits and illegal profits,
23 and unjustly enriched DEFENDANTS, at the expense of PLAINTIFF.

24 64. PLAINTIFF has been personally injured by DEFENDANTS' unlawful business practices,
25 including the loss of money.

26 65. Pursuant to California Business & Professions Code sections 17200 et seq., PLAINTIFF is
27 also entitled to disgorgement of illegally acquired profits by DEFENDANTS during the period of
28 employment. PLAINTIFF is also entitled to an award of attorneys' fees and costs under the common

1 fund doctrine, California Code of Civil Procedure section 1021.5, and other applicable laws.

2 **SECOND CAUSE OF ACTION**

3 For Failure to Pay Minimum Wages
(Cal. Lab. Code § 1194, 1197& 1197.1)
(Against All DEFENDANTS)

4 66. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every
5 allegation set forth above.

6 67. PLAINTIFF and other AGGRIEVED EMPLOYEES bring a claim for DEFENDANTS'
7 willful and intentional violations of California Labor Code and the Industrial Welfare Commission
8 requirements for DEFENDANTS' failure to accurately calculate and pay proper wages to
9 PLAINTIFF AND AGGRIEVED EMPLOYEES.

10 68. Pursuant to Cal. Lab. Code §204, other applicable laws and regulations, and public policy,
11 an employer must timely pay its employees for all hours worked.

12 69. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including
13 minimum wage compensation and interest thereon, together with the costs of suit.

14 70. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and other
15 AGGRIEVED EMPLOYEES without regard to the correct amount of time they worked. As set
16 forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and intentionally
17 deny timely payment of wages due to PLAINTIFF.

18 71. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested, without
19 limitation, applicable to AGGRIEVED EMPLOYEES as a whole, as a result of implementing a
20 uniform policy and practice that denied accurate compensation to PLAINTIFF and AGGRIEVED
21 EMPLOYEES in regard to minimum wages, listing the correct hours worked, and compensation
22 for missed rest periods.

23 72. In committing these violations of the California Labor Code, DEFENDANTS inaccurately
24 calculated the amount of time worked and consequently underpaid the actual time worked by
25 PLAINTIFF and AGGRIEVED EMPLOYEES. DEFENDANTS acted in an illegal attempt to
26 avoid the payment of all earned wages, and other benefits in violation of the California Labor
27 Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

1 73. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
2 PLAINTIFF and AGGRIEVED EMPLOYEES did not receive the correct wage compensation for
3 all time worked for DEFENDANTS.

4 74. During the PAGA Period, PLAINTIFF and AGGRIEVED EMPLOYEES were also paid
5 less for time worked than they were entitled to, constituting a failure to pay all earned wages.

6 75. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned compensation
7 to PLAINTIFF and other AGGRIEVED EMPLOYEES for the true time worked, PLAINTIFF and
8 other AGGRIEVED EMPLOYEES have suffered and will continue to suffer an economic injury
9 in amounts which are presently unknown to him, and which will be ascertained according to proof
10 at trial.

11 76. DEFENDANTS knew or should have known that PLAINTIFF and other AGGRIEVED
12 EMPLOYEES was under-compensated for their time worked. DEFENDANTS systematically
13 elected, either through intentional malfeasance or gross nonfeasance, to not pay employees for
14 their labor as a matter of uniform corporate policy, practice and procedure, and DEFENDANTS
15 perpetrated this systematic scheme by refusing to pay PLAINTIFF and other AGGRIEVED
16 EMPLOYEES the correct wages for their time worked.

17 77. In performing the acts and practices herein alleged in violation of California labor laws,
18 and refusing to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for all time
19 worked and provide him with the requisite compensation, DEFENDANTS acted and continue to
20 act intentionally, oppressively, and maliciously toward PLAINTIFF and other AGGRIEVED
21 EMPLOYEES with a conscious and utter disregard for their legal rights, or the consequences to
22 them, and with the despicable intent of depriving them of their property and legal rights, and
23 otherwise causing them injury in order to increase company profits at the expense of these
24 employees.

25 78. PLAINTIFF and other AGGRIEVED EMPLOYEES therefore, requests recovery of all
26 unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any
27 statutory penalties against DEFENDANTS, in a sum as provided by the California Labor Code
28 and/or other applicable statutes. To the extent minimum wage compensation is determined to be

1 owed to other AGGRIEVED EMPLOYEES whose employment has terminated, DEFENDANTS'
2 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also
3 entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on
4 behalf of these AGGRIEVED EMPLOYEES. DEFENDANTS' conduct as alleged herein was
5 willful, intentional, and not in good faith. Further, PLAINTIFF and other AGGRIEVED
6 EMPLOYEES are entitled to seek and recover statutory costs.

7 **THIRD CAUSE OF ACTION**

8 For Failure to Pay Wages When Due
9 Cal. Lab. Code §§ 201, 202, 203, and 204
(Against All DEFENDANTS)

9 79. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every
10 allegation set forth above.

11 80. If an employer willfully fails to pay, without abatement or reduction, in accordance with
12 Sections 201, . . . 202, any wages of an employee who is discharged or who quits, the wages of the
13 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
14 an action therefor is commenced; but the wages shall not continue for more than 30 days. (Cal.
15 Lab. Code § 203).

16 81. To date, DEFENDANTS, have yet to pay PLAINTIFF and other AGGRIEVED
17 EMPLOYEES all wages and all premiums due to them for off-the-clock work and missed rest
18 breaks and DEFENDANTS have failed to pay any penalty wages owed to them under California
19 Labor Code section 203. As a result of DEFENDANTS' failure to pay PLAINITFF and other
20 AGGRIEVED EMPLOYEES for all hours worked and separately compensate PLAINTIFF and
21 other AGGRIEVED EMPLOYEES for their breaks, DEFENDANTS have failed to pay all wages
22 to PLAINITFFS and other AGGRIEVED EMPLOYEES. To the extent that wages are owed to
23 AGGRIEVED EMPLOYEES whose employment has terminated, DEFENDANTS' conduct also
24 violates California Labor Code section 203.

25 82. Therefore, as provided by Cal Lab. Code § 203, on behalf of these AGGRIEVED
26 EMPLOYEES, PLAINTIFF demands up to thirty (30) days of pay as a penalty for not paying all
27 wages due at the time of termination and demands an accounting and payment of all wages due,
28 plus interest and statutory costs as allowed by law.

83. Further, every person who fails to pay the wages of each employee as provided in Sections 204 is liable for \$100.00 for the initial violations, \$200 for each subsequent failure to pay an employee, plus 25% of the amount unlawfully withheld.

84. PLAINTIFF and other AGGRIEVED EMPLOYEES seek to recover the statutory penalties provided by Labor Code sections 203, 204, and 210 for the violations committed by DEFENDANTS.

FOURTH CAUSE OF ACTION
For Failure to Provide Rest Periods
(Cal. Lab. Code §§ 226.7 & 512)
(Against All DEFENDANTS)

85. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

86. From time to time, PLAINTIFF and other AGGRIEVED EMPLOYEES were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, and a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with one-hour wages in lieu thereof. As a result of their workload and inadequate staffing practices by DEFENDANTS, PLAINTIFF and other AGGRIEVED EMPLOYEES were denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

87. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF, who was not provided a rest period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that rest period was not provided.

88. As a proximate result of the aforementioned violations, PLAINTIFF and other AGGRIEVED EMPLOYEES have been damaged in an amount according to proof, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

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1 **FIFTH CAUSE OF ACTION**

2 For Failure to Provide Accurate, Itemized Wage Statements
(Cal. Lab. Code §§ 226; 1174.5)
(Against All DEFENDANTS)

3 89. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every
4 allegation set forth above.

5 90. Section 226(a) of the California Labor Code requires employers to provide itemized wage
6 statements accurately reporting total hours worked, wages earned, and all deductions made from
7 wages earned by such employees.

8 91. DEFENDANTS did not accurately record PLAINTIFF and other AGGRIEVED
9 EMPLOYEES' wages, off-the-clock work, and missed rest breaks. DEFENDANTS failed to
10 provide an accurate wage statement in writing that properly and accurately itemizes all wages,
11 missed rest periods, and reporting time wages owed to PLAINTIFF and other AGGRIEVED
12 EMPLOYEES and thereby also failed to set forth the correct wages earned by the employees.

13 92. DEFENDANTS knowingly and intentionally failed to comply with Labor Code section
14 226(a) on each and every wage statement that they provided to PLAINTIFF and other AGGRIEVED
15 EMPLOYEES.

16 93. By failing to keep adequate records, as required by Labor Code section 226 and 1174,
17 DEFENDANTS injured PLAINTIFF and other AGGRIEVED EMPLOYEES, making it difficult
18 for PLAINTIFF and other AGGRIEVED EMPLOYEES to calculate the minimum wages owed and
19 premiums owed to them for missed rest periods. Those injuries include unpaid wages, interest, and
20 penalties thereon.

21 94. PLAINTIFF and other AGGRIEVED EMPLOYEES seeks to recover the statutory penalties
22 provided by Labor Code section 226(e), 226.3, and 1174.5 for the wage statement violations
23 committed by DEFENDANTS.

24 **SIXTH CAUSE OF ACTION**

25 For Recovery of Civil Penalties Under the Labor Code Private Attorney General Act
(Cal. Lab. Code §§ 2698 et seq.)
(Against All DEFENDANTS)

26 95. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every
27 allegation set forth above.

28 96. As a result of the acts alleged herein, PLAINTIFF, as an AGGRIEVED EMPLOYEE within

1 the meaning of Labor Code section 2699, subdivision (c), on behalf of himself and all other
2 AGGRIEVED EMPLOYEES of DEFENDANTS, seeks the recovery of civil penalties against
3 DEFENDANTS pursuant to California Labor Code sections 2698 et seq., for the following knowing
4 and intentional violations of the California Labor Code:

- 5 a. For failing to pay wages promptly or when due and payable, in violation of Labor Code
6 sections 201, 202, 203, and 204;
- 7 b. For failing to maintain for and provide to PLAINTIFF itemized wage statements
8 required by Labor Code Section 226.
- 9 c. For failing to compensate PLAINTIFF and other employees who were not provided a
10 rest period in violation of Labor Code Section 226.7;

11 97. The above-referenced civil penalties shall include the recovery of amounts specified in the
12 applicable sections of the Labor Code, and if not specifically provided, those under section 2699(f),
13 and shall include those amounts sufficient to recover underpaid wages, including all necessary
14 expenditures or losses incurred by PLAINTIFF, pursuant to Labor Code sections §§ 201, 202, 203,
15 204, 226, 226.7, 510, 512, 515, 1174.5, and 2699, subdivisions (a) and (f).

16 98. PLAINTIFF filed this complaint after the LWDA was afforded the opportunity to consider
17 PLAINTIFF'S notice of DEFENDANTS' Labor Code violations and of PLAINTIFF'S intent to
18 prosecute a private enforcement action for civil penalties under PAGA. After the LWDA declined
19 to investigate, PLAINTIFF brought this PAGA cause of action against DEFENDANTS, pursuant
20 to California Labor Code section 2699.3, subdivision (a)(2)(A).

21 **DEMAND FOR RELIEF**

22 WHEREFORE, PLAINTIFF prays for a judgment against each DEFENDANT, jointly and
23 severally, as follows:

24 1. On behalf of the PLAINTIFF:

- 25 a. An order temporarily, preliminarily and permanently enjoining and restraining
26 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- 27 b. An order requiring DEFENDANTS to pay all wages and all sums unlawfully
28 withheld from compensation due to PLAINTIFF; and

- 1 c. Compensatory damages, according to proof at trial, including compensatory
2 damages for minimum and overtime compensation, due to PLAINTIFF plus interest thereon
3 at the statutory rate;
- 4 d. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for
5 restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF.
- 6 e. Rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
7 applicable IWC Wage Order;
- 8 f. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
9 which a violation occurs and one hundred dollars (\$100) per each AGGRIEVED
10 EMPLOYEE for each violation in a subsequent pay period, not exceeding an aggregate
11 penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab.
12 Code § 226.
- 13 g. The wages of all terminated employees from the AGGRIEVED EMPLOYEES as a
14 penalty from the due date thereof at the same rate until paid or until an action therefore is
15 commenced, in accordance with Cal. Lab. Code §203.
- 16 h. Punitive damages in a sum to be proven at trial.
- 17 i. Liquidates damages pursuant to Cal. Lab. Code § 1194.2.

18 On Behalf of the State of California:

19 A. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
20 General Act of 2004;

21 On all claims:

- 22 A. An award of interest, including prejudgment interest at the legal rate;
- 23 B. Such other and further relief as the Court deems just and equitable; and
- 24 C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.
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Respectfully submitted,

DATED: September 5, 2023

EMRAN LAW

By: 
Harris Emran
Attorney for PLAINTIFF

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DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

DATED: September 5, 2023

EMRAN LAW

By: 
Harris Emran
Attorney for PLAINTIFF