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9 Attorneys for Plaintiff
10 RANI GHANEM

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO**

13 RANI GHANEM, an individual, for the real party
14 in interest, the State of California,

15 Plaintiff,

16 vs.

17 JP MORGAN CHASE BANK, NA; and DOES 1
18 through 50,

19 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

10/05/2023 at 10:25:10 AM

Clerk of the Superior Court
By Katie Winburn, Deputy Clerk

Case No. 37-2023-00043262-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiff RANI GHANEM (“Plaintiff”), in his capacity as the State of California’s designated
2 proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current and former
3 California non-exempt employees (“Aggrieved Employees”) alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the PAGA, incorporated in Labor Code sections 2698, 2699 *et seq.*,
6 Plaintiff brings this representative action against Defendants JPMORGAN CHASE BANK, NA
7 (“CHASE”) and DOES 1 through 50 (all defendants are hereinafter collectively referred to as
8 “Defendants”) for wage and hour violations of the California Labor Code and the applicable Industrial
9 Welfare Commission Wage Order (the “IWC Wage Order”).

10 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
11 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
12 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
13 for violation of the code may, as an alternative, be recovered through a civil action brought by an
14 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
15 to the procedures specified in Labor Code section 2699.3.

16 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
17 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

18 **JURISDICTION AND VENUE**

19 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
20 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
21 because Plaintiff alleges claims arising under California law.

22 5. This Court has jurisdiction over Defendants because each is believed to be an
23 association, corporation, business entity, or individual that conducts substantial business in the State
24 of California, County of San Diego.

25 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

26 7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the
27 Superior Court of California for the County of San Diego because this is where the wrongful
28 misconduct alleged herein occurred.

1 **THE PARTIES**

2 8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins*
3 *Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff
4 files suit is always the real party in interest.”].)

5 9. Plaintiff worked for Defendants during which time he was paid hourly and was
6 considered non-exempt.

7 10. Plaintiff is an “aggrieved employee” because he was employed by Defendants and had
8 one or more of the alleged violations committed against him, and therefore is properly suited to act
9 on behalf the state, and collect civil penalties for all violations committed against the current and
10 former employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

11 11. The true names and capacities, whether individual, corporate, associate or otherwise
12 of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff
13 therefore sues said Defendants by such fictitious names pursuant to California Code of Civil
14 Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to
15 allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff
16 is informed and believes, and based thereon allege, that each of the DOE Defendants is in some
17 manner liable to Plaintiff for the events and actions alleged herein.

18 12. Plaintiff is informed and believes, and based thereon alleges, that at all times, each
19 Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the
20 other defendants and each were co-conspirators with respect to the acts and the wrongful conduct
21 alleged herein so that each is responsible for the acts of the other in connection with the conspiracy
22 and in proximate connection with the other defendants.

23 13. At all material times, Defendants were and/or are employers or persons acting on
24 behalf of employers, under California law, the IWC Wage Order, and the Labor Code, including Labor
25 Code sections 558 and 558.1 and thus are jointly and severally liable for the violations alleged herein
26 and any amounts awarded and/or recoverable as a result of this action.

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1 21. Upon information and belief, Defendants paid sick leave at the incorrect rate of pay
2 resulting in the underpayment of wages. By way of one example, Defendants failed to accurately
3 include all compensation earned (e.g. bonuses, commissions, and/or incentives) during a given period
4 when determining the appropriate rate of pay for sick leave wages as required by Labor Code sections
5 246 and 246(l), resulting in the underpayment of wages.

6 22. Upon information and belief, Defendants also failed to timely true up the appropriate
7 sick leave payments. In particular, Defendants issued retroactive sick leave adjustment payments to
8 Aggrieved Employees at a time later than the pay period wherein the Defendants issued Aggrieved
9 Employees their incentives that were supposed to be applied retroactively to the respective pay period
10 wherein the Aggrieved Employee used, and was paid for, sick leave. Indeed, Defendants failed to
11 timely true up all sick pay at the time incentive earnings were determined and issued to Aggrieved
12 Employees. Instead, Defendant would delay issuing retroactive true up payments for prior sick leave
13 earnings until after the pay period wherein it issued incentives to Aggrieved Employees and
14 retroactively trued up their prior overtime earnings.

15 23. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
16 Labor Code sections 246 and 246(l).

17 24. Aggrieved Employees are permitted to use the PAGA to enforce California's Healthy
18 Workplaces Healthy Families Act. (*Wood v. Kaiser Found. Hosps.* (2023) 88 Cal.App.5th 742, 748.)

19 25. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
20 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
21 *Alameda Cty.* (2020) 9 Cal.5th 279.)

22 26. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
23 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
24 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
25 all Labor Code provisions for which a civil penalty is not specifically provided.

26 27. Plaintiff is seeking civil penalties against Defendants under Labor Code section
27 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
28 amount to be shown according to proof.

37. Labor Code section 558 imposes upon Defendants, and each of them, civil penalties of fifty dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

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

39. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

40. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRD CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 510 and 1198 against all Defendants)**

41. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

42. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order.)

43. Upon information and belief, Defendants failed to provide Aggrieved Employees with overtime pay at the regular rate of pay. By way of one example, Defendants failed to include all compensation earned (e.g. bonuses, commissions, and/or incentives) during a given period when determining the regular rate of pay, resulting in the underpayment of wages.

44. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 510, 1198, and the IWC Wage Order.

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

46. Pursuant to Labor Code section 558, any employer or other person acting on behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them, penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

47. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

48. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a)(1) against all Defendants)

49. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

50. Labor Code section 226(a)(1) requires wage statements that an employer issues to its employees accurately state the gross wages earned.

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51. Defendants failed to accurately state the proper gross on the wage statements in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to Aggrieved Employees failed to include the accurate amount of gross wages because they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal/rest premium wages, and/or overtime wages.

52. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

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

54. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

55. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

56. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a)(2) against all Defendants)

57. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

58. Labor Code section 226(a)(2) requires wage statements that an employer issues its employees to accurately state the total hours worked.

59. Defendants' wage statements that it issued to Aggrieved Employees failed to accurately state the total hours worked in violation of Labor Code section 226(a)(2).

60. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(2).

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

62. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

63. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

64. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SIXTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

65. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

66. Labor Code section 226(a)(5) requires wage statements that an employer issues to its employees accurately state the net wages earned.

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67. Defendants failed to accurately state the proper net on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued to Aggrieved Employees failed to include the accurate amount of net wages because they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal/rest premium wages, and/or overtime wages.

68. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(5).

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

70. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

71. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

72. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(9) against all Defendants)**

73. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

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1 74. Labor Code section 226(a)(9) requires wage statements that an employer issues its
2 employees to accurately state all applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the employee.

4 75. Upon information and belief, Defendants failed to provide the applicable hourly rates
5 in effect during the pay period and the corresponding number of hours worked at each hourly rate by
6 the employee in violation of Labor Code section 226(a)(9). By way of one example, the rates/hours
7 for sick pay wages, meal/rest premiums, and overtime are inaccurately itemized. By way of another
8 example, Defendants failed to accurately state the corresponding number of hours for “SK3 Sick
9 Hourly Entitlement Retroactive” when Defendants issued incentives and retroactively trued up the
10 previously issued sick pay wages. By way of a further example, Defendants failed to accurately
11 itemize the applicable rates and hours for meal/rest premiums and “Retro Normal Pay”.

12 76. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
13 Labor Code section 226(a)(9).

14 77. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
15 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
16 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
17 all Labor Code provisions for which a civil penalty is not specifically provided.

18 78. With respect to violations of Labor Code section 226, Labor Code section 226.3
19 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
20 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
21 employee for each pay period.

22 79. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
23 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
24 PAGA in an amount to be shown according to proof.

25 80. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
26 reasonable attorneys’ fees, costs, and filing fees paid to the LWDA in an amount to be shown
27 according to proof.

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1 **EIGHTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226(a) against all Defendants)**

4 81. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 82. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage
7 statement provided to an employee or a computer-generated record that accurately shows all of the
8 information required under 226(a)(1) through (a)(9).

9 83. Upon information and belief, during all times relevant to this action, Defendants failed
10 to keep records required under Labor Code section 226(a). By way of example, the copies of the
11 records kept do not include the accurate gross and net wages, total hours worked, and applicable
12 hourly rates and corresponding hours worked.

13 84. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
14 Labor Code section 226(a).

15 85. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 86. With respect to violations of Labor Code section 226, Labor Code section 226.3
20 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
21 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
22 employee for each pay period.

23 87. Plaintiff is seeking civil penalties against Defendants under Labor Code section
24 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
25 PAGA in an amount to be shown according to proof.

26 88. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
27 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
28 according to proof.

1 **NINTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 204 against all Defendants)**

4 89. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 90. Labor Code section 204 imposes an obligation of timely payment of wages upon
7 California employers.

8 91. Defendants violated Labor Code section 204 because they failed to timely pay
9 Aggrieved Employees all earned wages during an applicable pay period. By way of one example,
10 Defendants failed to pay all earned wages, including, but not limited to, sick pay wages, meal/rest
11 premium wages, and overtime wages in a timely manner as required under Labor Code section 204.

12 92. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
13 Labor Code section 204.

14 93. Labor Code section 210 imposes upon Defendants, and each of them, civil penalties of
15 one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two
16 hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

17 94. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
18 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
19 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
20 all Labor Code provisions for which a civil penalty is not specifically provided.

21 95. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 210,
22 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in
23 an amount to be shown according to proof.

24 96. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
25 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
26 according to proof.

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104. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

105. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
3. Post-judgment interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

Dated: October 5, 2023

MASHIRI LAW FIRM, APC

By: 
 Alex Asil Mashiri
 Attorney for Plaintiff
 RANI GHANEM