

1 Michael Nourmand, Esq. (SBN 198439)
James A. De Sario, Esq. (SBN 262552)
2 Ivan P. Medina, Esq. (SBN 323360)
THE NOURMAND LAW FIRM, APC
3 8822 West Olympic Boulevard
Beverly Hills, California 90211
4 Telephone: (310) 553-3600
Facsimile: (310) 553-3603

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/14/2023 4:10 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

5 Attorneys for Plaintiff, NAYAN LAL,
6 on behalf of himself and all others similarly situated

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES- CENTRAL**

10
11 NAYAN LAL, on behalf of himself and all
12 others similarly situated,

13 Plaintiff,

14 v.

15 ESOTERIX, INC., a Delaware corporation;
16 LABAROTORY CORPORATION OF
AMERICA HOLDINGS, a Delaware
17 corporation; and DOES 1 through 100,
Inclusive

18 Defendants.
19
20
21

CASE NO.: 23ST CV 2791 7

PAGA REPRESENTATIVE COMPLAINT

1. VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT OF
2004, CALIFORNIA LABOR CODE §
2698 *et seq.*

DEMAND FOR JURY TRIAL

22 COMES NOW, plaintiff NAYAN LAL (at times hereinafter "Plaintiff" or "Mr. Lal"), on
23 behalf of himself and all others similarly situated, and alleges as follows:

24 **INTRODUCTION**

25 1. This is a representative action, pursuant to the Private Attorneys General Act of
26 2004, California Labor Code § 2698 *et seq.* on behalf of Plaintiff and all other aggrieved
27 employees employed by or formerly employed by defendants ESOTERIX, INC. ("Esoterix"),
28 LABARATORY CORPORATION OF AMERICA HOLDINGS ("LabCorp") and any of its

1 respective subsidiaries or affiliated companies (collectively referred to as “Defendants”), as set out
2 below, within the State of California.

3 2. Defendants, on multiple occasions, have had a pattern and practice of failing to pay
4 wages for all time worked, including overtime wages, as a result of requiring Plaintiff and other
5 non-exempt employees to wait in line for and undergo COVID-19 temperature checks prior to the
6 start of their work shifts without compensating them for this time.

7 3. Defendants, on multiple occasions, have had a pattern and practice of failing to
8 provide Plaintiff and other similarly situated employees or former employees within the State of
9 California a thirty (30) minute uninterrupted meal period for days on which the employees worked
10 more than five (5) hours in a workday and a second thirty (30) minute uninterrupted meal periods
11 for days on which such employees worked in excess of ten (10) hours in a work day, and failing to
12 provide compensation at the regular rate of pay for such unprovided meal periods, as required by
13 California wage and hour laws.

14 4. Defendants, on multiple occasions, have had a pattern and practice of failing to
15 provide Plaintiff and similarly situated employees or former employees within the State of
16 California rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
17 thereof and failing to provide compensation at the regular rate of pay for such unprovided rest
18 periods, as required by California wage and hour laws.

19 5. Plaintiff and other similarly situated employees or former employees at all times
20 pertinent hereto were not exempt from the overtime and meal break and rest break provisions of
21 California law, and the implementing rules and regulations of the IWC California Wage Orders.

22 6. Defendants, on multiple occasions, have had a pattern and practice of failing to pay
23 Plaintiff and other similarly situated employees the full amount of their wages owed to them upon
24 termination and/or resignation as required by Labor Code §§ 201 and 202.

25 7. Defendants have failed comply with Labor Code § 226(a) by not providing Plaintiff
26 and other similarly situated employees wage statements accurately showing, including, but not
27 limited to, pay due and owing for all hours worked, including overtime, and meal and rest
28 premium wages, as described in.

8. Defendants, on multiple occasions, have had a pattern and practice of failing to pay employees their wages in accordance with Labor Code §204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

9. Plaintiff, in his representative capacity, seeks civil penalties for the herein described acts, which violate the California Labor Code, under the Private Attorneys General Act (“PAGA”), California Labor Code § 2698 *et seq.*

JURISDICTION AND VENUE

10. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

11. Venue is proper in Los Angeles, California pursuant to Code of Civil Procedure section 392, *et seq.* The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated within Los Angeles County and the State of California. Moreover, Defendants employ numerous aggrieved employees in Los Angeles County and the State of California.

PARTIES

A. Plaintiff

12. Plaintiff, Mr. Lal, is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed him as a non-exempt employee in the State of California.

B. Defendants

13. Defendant, Esoterix, a Delaware corporation, operates a healthcare company that provides laboratory diagnostic testing within the State of California. Esoterix employed Plaintiff and similarly situated persons within the State of California.

14. Defendant, Laboratory Corporation of America Holdings, a Delaware corporation, operates a healthcare company that provides laboratory diagnostic testing and information to physicians, hospitals, and pharmaceutical companies within the State of California. LabCorp

1 employed Plaintiff and similarly situated persons within the State of California.

2 15. Defendants have employed Plaintiff and similarly situated persons within the State
3 of California. Plaintiff is informed and believes that Defendants are joint employers in that they
4 both employed Plaintiff and similarly situated employees at the same time and were operating as a
5 joint enterprise at all relevant times.

6 16. The true names and capacities, whether individual, corporate, associate, or
7 otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to
8 Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure
9 section 474. Plaintiff is informed and believe and based thereon alleges that each of the
10 defendants designated herein as DOE is legally responsible in some manner for the unlawful acts
11 referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
12 names and capacities of the defendants designated hereinafter as DOES when such identities
13 become known.

14 17. Plaintiff is informed and believes, and based thereon alleges, that each defendant
15 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a
16 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
17 defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter,
18 reference is made to "Defendants," it shall include DOES 1 through 100 identified herein.

19 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

20 18. On or about July 6, 2023, Plaintiff provided written notice, electronically to the
21 Labor and Workforce Development Agency ("LWDA") and by certified mail, with return receipt
22 requested, to Defendants, of the violations of various, including the herein-described, provisions
23 of the California Labor Code ("PAGA Notice").

24 19. Pursuant to Labor Code Section 2699.3, subdivision (a)(2)(A), the LWDA did not
25 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
26 calendar days of the July 6, 2023 postmark date of the PAGA Notice sent by Plaintiff to the
27 LWDA and Defendants.

28 20. Defendants, on multiple occasions, have had a pattern and practice of failing to pay

1 wages for all time worked, including overtime wages, as a result of requiring Plaintiff and other
2 non-exempt employees to wait in line for and undergo COVID-19 temperature checks prior to the
3 start of their work shifts without compensating them for this time. As a result of these violations,
4 Defendants are liable for civil penalties under PAGA.

5 21. Defendants, on multiple occasions, have had a pattern and practice of failing to
6 provide Plaintiff and other similarly situated employees or former employees within the State of
7 California a thirty (30) minute uninterrupted meal period for days on which the employees worked
8 more than five (5) hours in a workday and a second thirty (30) minute uninterrupted meal periods
9 for days on which the employees worked in excess of ten (10) hours in a work day, and failing to
10 provide compensation at the regular rate of pay for such unprovided meal periods as required by
11 California wage and hour laws. As a result of these violations, Defendants are liable for civil
12 penalties under PAGA.

13 22. Defendants, on multiple occasions, have had a pattern and practice of failing to
14 provide Plaintiff and similarly situated employees or former employees within the State of
15 California rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
16 thereof and failing to provide compensation at the regular rate of pay for such unprovided rest
17 periods as required by California wage and hour laws. As a result of these violations, Defendants
18 are liable for civil penalties under PAGA.

19 23. Defendant, on multiple occasions, have had a pattern and practice of failing to
20 comply with Labor Code section 226, subdivision (a) by not providing itemized wage statements
21 accurately showing, including but not limited to, hours worked and applicable rates of pay for
22 hours worked, pay due and owing for meal and rest break law violations, to Plaintiff and other
23 similarly aggrieved employees within the State of California. Consequently, since Defendants
24 have failed to comply with Labor Code section 226, subdivision (a), Plaintiff and other aggrieved
25 would be entitled to recover penalties under, without limitation, Labor Code section 226,
26 subdivision (e). Defendants would also be liable for civil penalties pursuant to Labor Code
27 section 226.3, 558, and 2699.

28 24. Defendants, on multiple occasions, have had a pattern and practice of failing to pay

1 Plaintiff and other similarly situated employees the full amount of their wages owed to them upon
2 termination and/or resignation as required by Labor Code §§ 201 and 202. As a result of these
3 violations, Defendants are liable for civil penalties under PAGA.

4 25. Plaintiff is informed and believes, and based thereon alleges, that on multiple
5 occasions Defendants have had a pattern and practice of failing to pay Plaintiff and other
6 aggrieved employees their wages in accordance with Labor Code section 204, which requires that
7 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid
8 for between the 16th and 26th day of the month during which the labor was performed, and labor
9 performed between the 16th and the last day, inclusive of any calendar month, shall be paid for
10 between the 1st and 10th day of the following month.” Plaintiff is informed and believes and based
11 thereon alleges that Defendants did not and do not pay their employees in accordance with Labor
12 Code section 204. As a result, Defendants would be liable for civil penalties pursuant to Labor
13 Code sections 210, 558 and 2699.

14 26. Plaintiff and other similarly aggrieved employees or former employees within the
15 State of California at all times pertinent hereto were not exempt from receiving, overtime wages,
16 meal breaks or compensation in lieu thereof, rest breaks or compensation in lieu thereof, accurate
17 wage statements, all pay by the time of termination or resignation, and other such provisions of
18 California law, and the implementing rules and regulations of the IWC California Wage Orders.
19 As a result of these violations, Defendants are liable for civil penalties under PAGA.

20 27. Labor Code Section 2699(a) and (g) authorize an aggrieved employee, on behalf of
21 themselves and other current and former employees, to bring a civil action to recover civil
22 penalties pursuant to the procedures specified in Labor Code Section 2699.3.

23 **FIRST CAUSE OF ACTION**

24 **(VIOLATION OF PAGA – Against All Defendants)**

25 28. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
26 the preceding paragraphs of this Complaint as though fully set forth herein.

27 29. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by
28 Defendants during the applicable statutory period and suffered one or more of the Labor Code

1 violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all
2 other similarly aggrieved current and former employees of Defendants, the civil penalties provided
3 by PAGA, plus reasonable attorneys' fees and costs.

4 30. Plaintiff seeks to recover the PAGA civil penalties through a representative action
5 permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
6 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
7 PAGA allegations described herein is not required.

8 31. During the period beginning one (1) year preceding the filing of the PAGA Notice
9 (the "Civil Penalty PAGA Period"), Defendants violated, *inter alia*, Labor Code sections 200, 201,
10 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1 and 1199.

11 32. Pursuant to Labor Code section 2699, subdivisions (a) and (g), Plaintiff is
12 authorized, as an aggrieved employees, to bring a civil action to recover civil penalties pursuant to
13 the procedures specified in Labor Code section 2699.3.

14 33. Plaintiff has complied with the procedures for bringing suit specified in Labor
15 Code section 2699.3. Specifically, on or about July 6, 2023, Plaintiff provided his PAGA Notice
16 to the LWDA and to Defendants, which specified the provisions of the Labor Code alleged to have
17 been violated and those included herein, and the LWDA has elected not to investigate.

18 34. Pursuant to Labor Code section 2699, subdivisions (a) and (f), Plaintiff seeks to
19 represent and is entitled to recover civil penalties for and on behalf of similarly aggrieved
20 employees and former employees, for Defendants' violations of the herein and therein described
21 Labor Code violations during the Civil Penalty Period in the amount of one hundred dollars (\$100)
22 for each employee or former employee per pay period for the initial violation, and two hundred
23 dollars (\$200) for each employee or former employee per pay period for each subsequent
24 violation.

25 35. Pursuant to Labor Code section 226.3, Plaintiff and other similarly aggrieved
26 employees or former employees he seeks to represent are entitled to recover civil penalties for
27 Defendants' violation of Labor Code section 226, subdivision (a) in the amount of two hundred
28 fifty dollars (\$250) for each aggrieved employee or former employee per pay period for the initial

1 violation, and one thousand dollars (\$1000) for each aggrieved employee or former employee per
2 pay period for each subsequent violation.

3 36. Pursuant to Labor Code section 2699, subdivision (g), Plaintiff and other similarly
4 aggrieved employees and former employees he seeks to represent are entitled to an award of
5 reasonable attorneys' fees and costs in connection with their herein-described claims for civil
6 penalties.

7 **REQUEST FOR JURY TRIAL**

8 37. Plaintiff hereby requests a trial by jury.

9 **PRAYER**

10 **WHEREFORE**, on behalf of himself and all other similarly situated, Plaintiff prays for
11 judgment against Defendants as follows:

- 12 A. An award for civil penalties pursuant to Labor Code sections 210, 226.3, 558,
13 1197.1, and 2699(a)-(f);
- 14 B. An award for reasonable attorneys' fees and costs pursuant to Labor Code section
15 2699, subdivision (g) and/or other applicable law;
- 16 C. Pre-judgment and post-judgment interest;
- 17 D. For costs of suit incurred herein; and
- 18 E. Such other and further relief as the Court deems just and proper.

19
20 DATED: November 14, 2023

THE NOURMAND LAW FIRM, APC

21
22 By:



Michael Nourmand, Esq.
James A. De Sario, Esq.
Ivan P. Medina, Esq.
Attorney for Plaintiffs