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David W. Slayton,
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By E. Galicia, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAVID GRYLLES, an individual and as a
representative of aggrieved employees pursuant to
the Private Attorneys General Act (PAGA),

Plaintiff,

vs.

VIRGIN GALACTIC, LLC, a corporation;
GALACTIC CO., LLC, a corporation; and DOES 1
through 10 inclusive,

Defendant.

Case No. 23STCV27067

PLAINTIFF'S COMPLAINT FOR:

**1. PRIVATE ATTORNEY'S GENERAL ACT
(LABOR CODE SECTION 2698)**

On behalf of himself as an individual and as a representative of aggrieved employees pursuant to the Private Attorneys General Act (PAGA), Plaintiff David Grylls ("Plaintiff") alleges and complains against Defendants Virgin Galactic, LLC, Galactic Co., LLC and Does 1 through 10 (collectively, "Defendant") as follows:

PARTIES | JURISDICTION | VENUE

1. Plaintiff, at all times relevant hereto, is and has been a resident of the State of California.
2. Defendants Galactic Co., LLC, and Virgin Galactic, LLC doing business is Virgin Galactic, LLC operates an aerospace and space travel organization at 16555 Spaceship Landing Way, Mojave, California 93501 (the "worksite")

1 3. Defendant conducts business in the State of California.

2 4. Under California Code of Civil Procedure section 395(a), venue is proper in this County
3 because Defendant resides in this County and/or Plaintiff's alleged injuries herein occurred in this County.

4 5. The true names and capacities of the defendants named herein as Does 1 through 10,
5 inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff who therefore
6 sues such defendants by fictitious names pursuant to California Code of Civil Procedure section 474.
7 Plaintiff believes that all of the Doe defendants are California residents. Plaintiff will amend this
8 Complaint to show such true names and capacities when they have been determined. Defendant and Doe
9 Defendants are collectively referred to as "Defendant," "Defendants" or "Defendant Employers."

10 6. Plaintiff believes that, at all times relevant herein, each defendant designated, including
11 Does 1 through 10, was the agent, managing agent, principal, owner, partner, joint venturer, representative,
12 manager, servant, employee, and/or co-conspirator of each of the other defendants, and was at all times
13 mentioned herein acting within the course and scope of said agency and employment, and that all acts or
14 omissions alleged herein were duly committed with the ratification, knowledge, permission,
15 encouragement, authorization, and consent of each defendant designated herein.

16 7. Defendant, and each of them, acted in concert with one another to commit the wrongful
17 acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts
18 alleged herein, and/or attempted to do so, including pursuant to Government Code section 12940(i).
19 Defendant, and each of them, formed and executed a conspiracy or common plan pursuant to which they
20 would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and
21 pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

22 **ALTER EGO | AGENCY | JOINT EMPLOYER**

23 8. There exists such a unity of interest and ownership between Defendant Employers that the
24 individuality and separateness of Defendant Employers have ceased to exist. At all times relevant hereto,
25 Defendant Employers, and each of them, were the agents, employees, managing agents, supervisors,
26 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
27 other Defendant Employers, and each of them, and in doing the things alleged herein, were acting at least
28 in part within the course and scope of said agency, employment, conspiracy, joint employer, alter ego

status, successor status and/or joint venture and with the permission and consent of each of the other Defendant Employers. Whenever and wherever reference is made in this complaint to any act or failure to act by a defendant or co-defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each defendant acting individually, jointly and severally.

9. Plaintiff believes Defendant Employers were both Plaintiff's joint employer and are liable under the joint employer and single enterprise theories. *See Laird v. Capital Cities* (1998) 68 Cal.App.4th 727, 737-38 (four factors to prove single enterprise are "interrelation of operations, common management, centralized control of labor relations, and common ownership or financial control. ... Although courts consider the four factors together, they often deem centralized control of labor relations the most important."); *see also Vernon v. State of California* (2004) 116 Cal.App.4th 114, 128 (separate entities can also be deemed a "joint employer" by having the right to control the employment relationship, as evaluated by focusing on "an examination of defendant's role with respect to the right to hire, fire, transfer, promote, discipline, set the terms, conditions and privileges of employment, train and pay the plaintiff.")).

10. Defendant Employers were Plaintiff's employers, joint employers and/or special employers within the meaning of Government Code sections 12926 (d), 12940 (a),(h),(1), (h)(3)(A), (i), and, 12950, and regularly employ five (5) or more persons and are therefore subject to the jurisdiction of this Court. Defendant Employers were Plaintiff's employers, joint employers and/or special employers within the meaning of the Labor Code and the applicable Industrial Welfare Commission Order, and are each an "employer or other person acting on behalf of an employer" as such term is used in Labor Code sections 558 and/or 558.1, and liable to Plaintiff on that basis. Defendant Employers are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of Defendant Employers. Plaintiff performed services for each and every one of Defendant Employers, and to the mutual benefit of all Defendant Employers, and all Defendant Employers shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendant Employers' business was and is conducted.

11. Labor Code section 558.1 provides that an employer or "other person acting on behalf of an employer" who violates certain California wage and hour laws "may be held liable as the employer for such violation." Labor Code section 558.1 defines "other person acting on behalf of an employer" as a

1 “natural person who is an owner, director, officer, or managing agent” of the employer. Labor Code
2 section 558.1(b). *See* Labor Code section 558(a) (authorizing civil penalties against “any employer or
3 other person acting on behalf of an employer” who causes overtime pay violations to occur.”); *see Atempa*
4 *v. Pedrazzani*, 27 Cal.App.5th 809, 823-824 (2018); Labor Code section 1197.1 (“Any employer or other
5 person acting either individually or as an officer, agent, or employee of another person” for failure to pay
6 minimum wages.”); *see Reynolds v. Bement*, 36 Cal.4th 1075, 1089 (2005) (“aggrieved employees may
7 ... maintain civil actions to recover such penalties”); *see Reynolds v. Bement*, 36 Cal.4th 1075, 1089, fn.
8 10 (2005) (alter ego doctrine may be used in wage claim actions to impose liability on controlling directors
9 and shareholders); *see* Government Code section 12925(d) (defining “Person” as one *or more* individuals,
10 partnerships, associations, corporations, limited liability companies, legal representatives, trustees,
11 trustees in bankruptcy, and receivers or other fiduciaries).

12 12. Despite the formation of purported corporate existence, Defendant Employers are, in
13 reality, one and the same, including, but not limited to because: (a) Defendant Employers are completely
14 dominated and controlled by one another, who personally committed the frauds and violated the laws as
15 set forth in this complaint, and who have hidden and currently hide behind Defendant Employers to
16 perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose; (b)
17 Defendant Employers derive actual and significant monetary benefits by and through one another’s
18 unlawful conduct, and by using one another as the funding source for their own personal expenditures;
19 (c) Defendant Employers, while really one and the same, were segregated to appear as though separate
20 and distinct for purposes of perpetrating a fraud, circumventing a statute, or accomplishing some other
21 wrongful or inequitable purpose; (d) Defendant Employers does not comply with all requisite corporate
22 formalities to maintain a legal and separate corporate existence; (e) the business affairs of Defendant
23 Employers are, and at all times relevant were, so mixed and intermingled that the same cannot
24 reasonably be segregated, and the same are in inextricable confusion. Defendant Employers are, and at
25 all times relevant hereto were, used by one another as a mere shell and conduit for the conduct of certain
26 of Defendant Employers’ affairs, and are, and were, the alter ego of one another. The recognition of
27 the separate existence of each of the Defendant Employers would not promote justice, in that it would
28 permit Defendant Employers to insulate themselves from liability to Plaintiff for violations of the law.

1 The corporate existence of Defendant Employers should each be disregarded in equity and for the ends of
2 justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein. Accordingly,
3 Defendant Employers constitute the alter ego of one another, and the fiction of their separate corporate
4 existence must be disregarded.

5 ADMINISTRATIVE EXHAUSTION

6 13. Plaintiff exhausted administrative requirements for Plaintiff's claims.

7 14. On August 28, 2023, Plaintiff's counsel gave written notice by online filing with the
8 California Labor & Workforce Development Agency ("LWDA") and by sending via certified mail to
9 Defendants a letter specifying the California Labor Code provisions Defendants violated, including the
10 facts and theories supporting the alleged violations. More than sixty-five (65) days have passed since
11 Plaintiff's counsel submitted the letter to the LWDA and certified-mailed the letter to Defendants, and the
12 LWDA has not provided notice of intent to investigate the alleged violations, nor have Defendants
13 provided notice of intent or any efforts to cure. Accordingly, the statutory period for any investigation or
14 response has concluded and Plaintiff may commence this lawsuit pursuant to Labor Code section 2699,
15 as provided by subsection 2699.3.

16 FACTUAL ALLEGATIONS

17 15. **Defendant.** Defendant Galactic Co., LLC, and Virgin Galactic, LLC doing business is
18 Virgin Galactic, LLC operates an aerospace and space travel organization at 16555 Spaceship Landing
19 Way, Mojave, California 93501 (the "worksite").

20 16. **Plaintiff's Hire.** On or about November 11, 2020, Defendant hired Plaintiff David Grylls
21 (born in 1957), as an employee in the job position of Manager Structural Testing to work at the worksite.
22 Plaintiff was an exemplary employee, until his wrongful termination on July 11, 2023.

23 17. **Plaintiff's Job Details.** Defendant classified Plaintiff as an "exempt" employee paid
24 \$155,000, plus an annual bonus of \$12,000, stock options, 401k matching, and group medical and vision
25 insurance.

26 18. As a Manager of Structural Engineering, Plaintiff's job duties included managing engineers
27 and costs, and scheduling of aerospace vehicle certification testing. Plaintiff reported to Director of
28 Structural Integrity *Sidney Bauguess*.

1 19. Plaintiff worked full-time, no less than Monday through Friday 9am-5pm and reviewed
2 emails and messages after hours.

3 20. **Plaintiff Is Reassigned Where He Becomes Hurt.** For most of 2022, Plaintiff was on
4 special assignment where he reported to Director of Structural Integrity ***Duncan Koon*** and continued to
5 report to him through his firing.

6 21. During the special assignment, Plaintiff was assisting in Engineering repairs on the
7 manufacturing floor for the EVE Mothership Major Modification. Plaintiff did not supervise anyone in
8 this special assignment.

9 22. While working on the manufacturing floor on special assignment, Plaintiff experienced
10 severe deterioration of his right hip. The wear and tear from the special assignment duties aggravated his
11 right hip, causing it to collapse while working.

12 23. When the special assignment ended, Plaintiff returned to his old duties, except that he
13 continued under Duncan Koon's supervision and Plaintiff continued to supervise no one.

14 24. **Plaintiff Notifies His Supervisors Of The Need For Protected Medical Leave.** Plaintiff
15 required hip surgery and recovery time. Plaintiff informed Sidney Bauguess, Duncan Koon, and Engineer
16 Shane Furlong about the plan to take off three to four weeks of work for the surgery and recovery.

17 25. Instead of allowing Plaintiff to take the protected medical leave and return to work with
18 accommodations, Defendant seized on a pretextual reason to fire a 65-year-old injured employee who
19 needed surgery and terminated Plaintiff on July 11, 2023.

20 26. **Plaintiff's Misclassification.** Defendant misclassified Plaintiff as "exempt" as Plaintiff
21 should have been "non-exempt" thus entitled to overtime and breaks.

22 27. *Starting in 2022 when Plaintiff began on the special assignment and through termination,*
23 Defendant did not allow Plaintiff to customarily and regularly exercise discretion and independent
24 judgment in performing his job duties required by California Code of Regulations, Title 8, Section
25 11040(1)(A)(2). Plaintiff did not perform nearly enough managerial duties when he started his special
26 assignment and lost all of his management duties.

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1 28. **Overtime Work.** While misclassified as exempt, Defendant failed to pay Plaintiff for
2 work in excess of eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-
3 and-one-half (1.5) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day
4 or more than forty (40) hours in a workweek, and for work in excess of twelve (12) hours in a day overtime
5 compensation at a rate of two (2) times the regular rate of pay.

6 29. **Meal Break Violations.** While misclassified as exempt, Defendant failed to provide
7 Plaintiff with first or second timely, uninterrupted 30-minute meal break as required by law, according to
8 proof. For instance, among other things according to proof: Plaintiff did not get meal breaks at all;
9 Plaintiff was forced to work throughout Plaintiff's meal breaks; Plaintiff was "on-call" during meal
10 breaks; Plaintiff's meal breaks were not timely; Plaintiff's meal breaks were interrupted; Plaintiff's meal
11 breaks were less than the full 30 minutes; and/or Defendant required Plaintiff to remain on premises at
12 the worksite during meal breaks.

13 30. **Wage Statements.** Defendant knowingly and intentionally failed to provide Plaintiff with
14 uniform, complete, and accurate wage statements because the wage statements provided to Plaintiff failed
15 to list the: accurate totals of the hours worked; number of hours worked at each hourly rate; net wages
16 earned; and/or gross wages earned.

17 31. In addition, in violation of Labor Code § 226(a)(8), the wage statements Defendant
18 provided to Plaintiff do not show the correct "name and address of the legal entity that is the employer"
19 because Plaintiff's Form W-2 from 2022 states the employer name as "TSC LLC" with an address in
20 Mojave, California; whereas, the wage statements list the employer as Galactic Co., LLC with an address
21 in Tustin, California.

22 32. **Final Pay.** Defendant failed to pay Plaintiff all wages owed to Plaintiff immediately upon
23 Plaintiff's termination of employment, including earned and unpaid wages, such as: minimum wages;
24 overtime wages; and/or meal period premium wages.

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1 **FIRST CAUSE OF ACTION**

2 **PAGA REPRESENTATIVE ACTION FOR PENALTIES PURSUANT TO**
3 **LABOR CODE SECTION 2698**

4 33. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

5 34. Under the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code
6 sections 2698-2699.5, private parties may recover civil penalties for violations of the Labor Code. These
7 penalties are in addition to any other relief available under the Labor Code. As set forth above, Defendant
8 has committed numerous violations of the Labor Code against Plaintiff, including but not limited to:

9 • Labor Code §§ 201, 201.5, 202, 203. Failure to pay all wages immediately upon
10 termination or within 72 hours after notice of separation.

11 • Labor Code § 204. Failure to pay all earned wages within the time prescribed in Labor
12 Code §§ 204(a) and 204(b).

13 • Labor Code § 206. Failure to pay all undisputedly owed wages.

14 • Labor Code § 210. Failure to pay wages as required by Labor Code §§ 201.3, 204, 204b,
15 204.1, 204.2, 205, 205.5, 227.3, and/or 1197.5.

16 • Labor Code § 212. Failure to include the name and address of established place of business
17 in the state on pay checks to cash or deposit pay checks.

18 • Labor Code § 213. Unauthorized payment of final wages via direct deposit.

19 • Labor Code § 221. Failure to not collect and receive owed wages.

20 • Labor Code § 226. Failure to provide timely and accurate wage statements.¹

21 • Labor Code § 226.3. Failure to comply with Labor Code § 226(a).

22 • Labor Code § 226.7. Failure to provide rest periods and failure to provide an additional
23 hour of pay at the regular rate of compensation in lieu of the rest periods.

24 • Labor Code §§ 226.7 and 512. Failure to provide meal periods and failure to provide an
25 additional hour of pay at the regular rate of compensation in lieu of the meal periods.

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28 ¹ *Bernstein v. Virgin America, Inc.*, 3 F.4th 1127 (9th Cir. 2021) (awarding nearly \$4.4 million in
statutory Labor Code § 226 penalties and an additional \$5 million in PAGA civil penalties for Labor
Code § 226 violations).

- 1 • Labor Code § 256. Failure to pay all wages immediately upon termination or within 72
- 2 hours after notice of separation.
- 3 • Labor Code §§ 510 and 1194. Failure to pay overtime and double time compensation.
- 4 • Labor Code §§ 510, 1194, 1194.2, and 1197. Failure to pay minimum wages, including
- 5 overtime and double time compensation at the minimum wage rate.
- 6 • Labor Code § 558. Violation of a section of the chapter of the Labor Code starting with
- 7 Labor Code § 500, *et seq.*, or any provision regulating hours and days of work in any order of the Industrial
- 8 Welfare Commission.
- 9 • Labor Code § 558.1. Violation any provision regulating minimum wages or hours and
- 10 days of work in any order of the Industrial Welfare Commission, and violating Labor Code §§ 203, 226,
- 11 226.7, 1193.1, and/or 1194.
- 12 • Labor Code § 1174. Failure to maintain compliant employee and payroll records.
- 13 • Labor Code § 1197.1. Failure to pay minimum wage.
- 14 • Labor Code § 1199. Violation of an order of the Industrial Welfare Commission.
- 15 • Labor Code § 1198. Violation of the following sections of orders of the Industrial Welfare
- 16 Commission for conditions of labor prohibited by such:
 - 17 a. Wage Order 1-2001 (or other applicable Wage Order), Section 3, requiring
 - 18 an employer to pay overtime and double time compensation.
 - 19 b. Wage Order 1-2001 (or other applicable Wage Order), Section 4, requiring
 - 20 an employer to pay minimum wages, including overtime and double time compensation at
 - 21 the minimum wage rate.
 - 22 c. Wage Order 1-2001 (or other applicable Wage Order), Section 7, requiring
 - 23 an employer to maintain accurate information with respect to each employee; provide
 - 24 employees with thorough and accurate itemized wage statements; and, provide clocks
 - 25 within a reasonable distance from employees' work areas.
 - 26 d. Wage Order 1-2001 (or other applicable Wage Order), Section 11, requiring
 - 27 an employer to provide its employees with adequate meal periods and an additional hour
 - 28 of pay at the regular rate of compensation in lieu of the rest periods.

e. Wage Order 1-2001 (or other applicable Wage Order), Section 12, requiring an employer to provide its employees with adequate rest periods and an additional hour of pay at the regular rate of compensation in lieu of the rest periods.

35. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code section 2699(c), and a proper representative to bring a civil action on behalf of Plaintiff and other current and former employees of Defendant pursuant to the procedures specified in California Labor Code section 2699.3, because Plaintiff is employed by Defendant and the alleged violations of the California Labor Code were committed against Plaintiff.

36. Pursuant to California Labor Code section 2699.3, Plaintiff gave written notice on August 28, 2023, by online filing to the California Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendant of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories to support the alleged violations. More than 65 days have passed since Plaintiff provided written notice to the LWDA. The LWDA has not provided notice that it intends to investigate PLAINTIFF’S claims.

37. Pursuant to California Labor Code section 2699.3, Plaintiff served Defendant with the aforementioned LWDA notice via certified mail on August 28, 2023. More than 33 days have passed since that date. Defendant has not provided Plaintiff with notice that it cured any of the violations alleged therein.

38. Per the tolling provision in Labor Code section 2699.3(g), the period of liability under Plaintiff’s PAGA claim extends one year and sixty-five days before the filing of this complaint (the “PAGA Liability Period”).

39. Accordingly, Plaintiff has complied with all of the requirements set forth in California Labor Code section 2699.3 to commence a representative action under PAGA.

40. Pursuant to PAGA, Plaintiff seeks civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof, pursuant to the California Labor Code, including California Labor Code sections 2699(a) and 2699(f), which provides for \$100 for each initial violation and \$200 for each subsequent violation per employee pay period. In addition, pursuant to PAGA, Plaintiff seeks to recover civil penalties, including but not limited to penalties under Labor Code sections

210, 225.5, 226.3, 558, 1174.5, 1197.1, and 1199 from Defendant in a representative action for the violations set forth above. Plaintiff is entitled to an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1).

JURY TRIAL DEMANDED

Plaintiff demands a jury as to all causes of action, to the extent the law permits a jury trial for Private Attorney General Act claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendant as follows:

- a. For penalties pursuant to PAGA;
- b. For prejudgment interest pursuant to California Labor Code section 218.6, California Civil Code section 3287 and/or California Civil Code section 3288 and/or any other provision of law providing for prejudgment interest;
- c. For attorneys' fees where allowed by law;
- d. For costs of suit incurred herein; and
- e. For such other and further relief as deemed just and proper.

DATED: November 3, 2023

COLBY LAW FIRM, PC



By: _____

AARON N. COLBY
ZOE YUZNA

Attorneys for Plaintiff
DAVID GRILLS and
The Aggrieved Employees