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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO-CENTRAL DIVISION

CORINA POTTER, individually, on
behalf of Aggrieved Employees, and as
the State of California's designated
proxy under the Private Attorneys
General Act (PAGA) and on behalf of
others,

Plaintiffs,

vs.

DOLLAR TREE STORES, INC., a
Virginia corporation; and DOES 1
through 50 inclusive

Defendants.

Case No.: 37-2023-00047808-CU-OE-CTL

Judge: Hon. Marcella O. McLaughlin
Dept.: C-72

**REPRESENTATIVE ACTION
FIRST AMENDED COMPLAINT
VIA THE PAGA FOR:**

- 1. Failure to Pay State
Minimum/Regular Wages;**
- 2. Failure to Pay State Overtime;**
- 3. Failure to Make Payments Within
the Required Time;**
- 4. Meal and Rest Break Labor Code
Violations;**
- 5. Failure to Provide Accurate Wage
Statements;**
- 6. Failure to Maintain Records;**
- 7. Failure to Reimburse Work
Related Expenses;**
- 8. Inadequate Seating; and**
- 9. Claim for miscellaneous Labor
Code Violations via the PAGA.**

1 Plaintiff CORINA POTTER, in her capacity as the State of California's
2 designated proxy under the Private Attorneys General Act, on behalf of herself, and
3 on behalf of Aggrieved Employees (collectively the "Plaintiffs"), alleges the
4 following:

5 **NATURE OF THE ACTION**

6 1. This is a representative action under the Private Attorneys General Act
7 (PAGA) of 2004, as amended, Labor Code §§ 2698, *et seq.*

8 2. By this action, Plaintiffs seek civil penalties on behalf of herself and
9 Aggrieved Employees for Defendants' violations of the California Labor Code.
10 (*Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104.)

11 **JURISDICTION AND VENUE**

12 3. Pursuant to Article VI, § 10 of the California Constitution, subject matter
13 jurisdiction is proper in the Superior Court of California, State of California because
14 Plaintiffs allege claims arising under California law.

15 4. This Court has jurisdiction over the Defendants because each is an
16 association, corporation, business entity, or individual that conducts substantial
17 business in the State of California, County of San Diego.

18 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is
19 proper in the Superior Court of California for the County of San Diego because
20 Defendant is a Virginia corporation doing business in California and which entity
21 does not report to the Secretary of State where it maintains its principal place of
22 business in California and Defendants conduct substantial business in the County of
23 San Diego regardless. (*Easton v. Superior Court* (1970) 12 Cal.App.3d 243, 246 [a
24 foreign corporation that has not designated a principal office within the state may be
25 sued in any county in the state]; see also *Crestwood Behavioral Health, Inc. v.*
26 *Superior Court (Fragoza)* (2021) 60 Cal.App.5th 1069, 1075 citing *Battaglia*
27 *Enterprises, Inc. v. Superior Court* (2013) 215 Cal.App.4th 309, 313, ["The plaintiff's
28 choice of venue is presumptively correct.]")

THE PARTIES

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

7. Plaintiff CORINA POTTER is an individual that resides in California.

8. Defendant DOLLAR TREE STORES, INC. is a Virginia corporation that during all times relevant was doing business in California.

9. The true names and capacities, whether individual, corporate, associate, or otherwise of the Defendants named herein as DOES 1 through 50, are unknown to Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious names pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will seek leave to amend this Complaint to allege the true names and capacities of DOES 1 through 50 when the correct identities are ascertained. Plaintiffs are informed and believes, and based thereon alleges, that each of the DOE Defendants is in some manner liable to Plaintiffs for the events and actions alleged herein. All named Defendants and DOES 1 through 50 are collectively referred to as “Defendants.”

10. Plaintiffs are informed and believe, and based thereon allege that at all times relevant herein each Defendant was acting as an agent, joint venture, or as an integrated enterprise and/or alter ego for each of the other Defendants, and each was a co-conspirator with respect to the acts and the wrongful conduct alleged herein, so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other Defendants.

11. Plaintiffs are informed and believe, and based thereon allege that each Defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other Defendant.

12. Plaintiffs are informed and believe, and based thereon allege that each of the Defendants was an agent, managing general partner, managing member, owner,

1 co-owner, partner, employee, and/or representative of each of the Defendants, and
2 were at all times material hereto, acting within the purpose and scope of such agency,
3 employment, contract and/or representation, and that each of them are jointly and
4 severally liable to Plaintiffs for the acts alleged herein

5 13. Plaintiffs are informed and believe, and based thereon allege that each
6 of the Defendants are liable to Plaintiffs under legal theories and doctrines including
7 but not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4)
8 alter ego, based in part, on the facts set forth below.

9 14. Plaintiffs are informed and believe, and based thereon allege that each of
10 the named Defendants are part of an integrated enterprise and have acted or currently
11 act as the employer and/or joint employer of Plaintiffs, making each of them liable for
12 the wage and hour violations alleged herein.

13 **GENERAL ALLEGATIONS**

14 15. Defendants are generally in the retail store business.

15 16. At all times relevant, Defendants employed Plaintiff POTTER as a
16 cashier paid on an hourly basis as a non-exempt nonunion worker who performed
17 work in California from about June 6, 2023 to the present.

18 17. The named Plaintiff is an “aggrieved employee” because Defendants
19 employed Plaintiff in California and Plaintiff experienced one or more of the alleged
20 Labor Code violations committed against the Plaintiff, and therefore the named
21 Plaintiff is properly suited to act on behalf the state, and collect civil penalties for all
22 violations committed against the Represented Employees, who are also aggrieved
23 employees as defined by Labor Code § 2699(c).

24 18. California law provides that an aggrieved employee may file a
25 representative action under the PAGA against an employer for civil penalties in
26 connection with violations of the Labor Code and Wage Order.

27 19. On information and belief, current and former employees of Defendants
28 suffered from Defendants’ Labor Code violations.

Failure to Provide Payroll Records and Plaintiff's Personnel File.

20. On July 12, 2023, Plaintiff, via counsel, sent a letter to DEFENDANT EMPLOYER requesting access to Plaintiff's payroll records and employee personnel file.

21. On August 2, 2023, DEFENDANT EMPLOYER, via counsel, responded to the foregoing letter via email providing only some of Plaintiff's records.

22. On September 26, 2023, Plaintiff, via counsel, sent correspondence to DEFENDANT EMPLOYER indicating the employee personnel file production was incomplete and instructing DEFENDANT EMPLOYER to provide missing records.

23. On September 29, 2023, DEFENDANT EMPLOYER, via counsel, responded to the foregoing letter via email providing only some of Plaintiff's records.

24. Plaintiffs are informed and believe, and therefore alleges that, to date, DEFENDANT EMPLOYER has failed to produce the remaining portions of Plaintiff's personnel file including but not limited to Plaintiff's time records and employer handbooks

Wage Statement Claims.

25. During all times relevant and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege that Defendants issued the named Plaintiff and other Aggrieved Employees erroneous wage and earning statements.

26. For example, for the pay period of May 28, 2023, to June 10, 2023, Defendants issued the named Plaintiff a wage and earning statement that said Plaintiff's year-to-date earnings were \$1,515.14, when it is legally impossible to have accumulated such wages because Plaintiff had only started working for the named Defendant on or about June 6, 2023.

27. Defendants repeated the foregoing problem on at least two other wage and earning statements for the named Plaintiffs and likely many others.

28. In addition to the foregoing stand-alone claim under Labor Code § 226,

1 Plaintiffs are informed and believe, and therefore allege that Plaintiff's paystubs and
2 those of similarly situated employees of Defendants were inaccurate because
3 Defendants failed to pay them all wages to which they had a right to receive, as
4 alleged herein, supporting a derivative claim under Labor Code § 226.

5 29. Furthermore, Plaintiff alleges that Defendant violated Labor Code §
6 226(a), which provides, in relevant part, "An employer, semimonthly or at the time of
7 each payment of wages, shall furnish to their employee, either *as a detachable part of*
8 *the check*, draft, or voucher paying the employee's wages, or separately if wages are
9 paid by personal check or cash, an accurate itemized statement..." (Emphasis added.)

10 30. During all times relevant, Defendant did not issue Plaintiff paper wage
11 statements and, instead, required and continues to require Plaintiff and Aggrieved
12 Employees to obtain access to their wage statements only online (and not via the cash
13 register or some other method).

14 31. Because of a pay related problem in the month of October 2023,
15 however, Plaintiff needed access to her wage statements and despite several attempts
16 Plaintiff was and continues to be unable to obtain online access.

17 32. Plaintiff also contacted Defendant several times via telephone to request
18 access to Plaintiff's wage statements and, to date, Defendant has failed to respond.

19 33. Accordingly, because Defendant deprived Plaintiff from obtaining
20 access to her October 2023 wage statements, Plaintiff alleges Defendant violated
21 Labor Code § 226.

22 34. As to Plaintiffs' PAGA case, this claim is also premised, in part, on
23 Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees
24 per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

25 **Wage Claims.**

26 35. During all times relevant and continuing to the present, and pursuant to
27 company policy and/or practice and/or direction, Plaintiffs are informed and believe,
28 and therefore allege, that Defendants employed failed to pay Aggrieved Employees

1 all wages, e.g., overtime, minimum wages, etc., as required by law.

2 36. For example, during the pay period from July 9, 2023 to July 22, 2023,
3 the named Plaintiff worked 12 hours (see attached as **Exhibit 1** copies of the named
4 Plaintiff's timesheets), yet Defendant only paid the named Plaintiff for 4.45 hours,
5 thus underpaying wages in the amount of $(7.55 \times \$15.50 = \$117.03)$. (See attached as
6 **Exhibit 2** a copy of the named Plaintiff's corresponding wage statement.)

7 37. By way of further example, during the pay periods ending October 6,
8 2023 and October 20, 2023, respectively, Plaintiff worked the same number of hours,
9 but in one paycheck Defendant paid her \$112.69 and the other \$178.18, a large
10 discrepancy Plaintiff believes is an underpayment of wages.

11 38. Further, Plaintiffs allege that Defendants failed to pay Aggrieved
12 Employees all wages during the onboarding process.

13 39. For example, the named Plaintiff and presumably all Aggrieved
14 Employees normally go through an in-person job interview before Defendants hire
15 them.

16 40. Once Defendants extended the named Plaintiff and Aggrieved
17 Employees' job offers, Defendants required the named Plaintiff/Aggrieved
18 Employees to complete onboarding paperwork, such as filling out tax documents,
19 employment related forms, etc., during which time Defendants failed to compensate
20 the named Plaintiff/Aggrieved Employees for their work completing the onboarding
21 paperwork.

22 41. Other "off-the-clock" uncompensated labor common situation consisted
23 of Aggrieved Employees doing bank drops, supply runs, and work-related travel,
24 among other tasks Aggrieved Employees performed yet whose labor Defendants
25 failed to compensate.

26 42. Another example of "off-the-clock" unpaid labor common situation
27 consisted of Aggrieved Employees having to wait for stores to open and/or close
28 where they had not clocked in yet or had already clocked out during which time

1 Defendants' employees checked their bag checks, among other things, and were
2 required to wait for managers to open or close the store and/or check their bags during
3 which time Defendant should have compensated Aggrieved Employees but Defendant
4 did not.

5 43. Other "off-the-clock" uncompensated labor consisted of situations where
6 Defendant's store managers or their delegates manipulated Aggrieved Employees'
7 time records, thus causing Aggrieved Employees to lose worktime/compensation.

8 44. This claim is also premised on Plaintiffs' right to pursue all Labor Code
9 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
10 *USA, Inc.* (2018) 23 Cal.App.5th 745.

11 **Failure to Pay Meal and Rest Break Premiums.**

12 45. During all times relevant and continuing to the present, and pursuant to
13 company policy and/or practice and/or direction, Plaintiffs are informed and believe
14 and based thereupon allege that Defendants deprived Plaintiffs and other hourly
15 employees from taking lawful meal and rest periods and did not pay and refused to
16 pay premium pay to workers.

17 46. Plaintiffs are informed and believe and based thereupon allege that also
18 because of Defendants' policy, Defendants prevented Aggrieved Employees from
19 taking all their uninterrupted rest breaks to which they had the right to enjoy in an
20 amount to be proven at trial, and Defendants failed to pay them premium pay as
21 required under California law. (*See Augustus v. ABM Security Services* (2016) 2
22 Cal.5th 257.)

23 47. This claim is premised on Plaintiffs' right to pursue all Labor Code
24 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
25 *USA, Inc.* (2018) 23 Cal.App.5th 745.

26 **Unreimbursed Work-Related Expense Claims.**

27 48. During all times relevant and continuing to the present, and pursuant to
28 company policy and/or practice and/or direction, Plaintiffs are informed and believe

1 and based thereupon allege that Defendants failed to reimburse its employees for
2 work related expenses.

3 49. In particular, Plaintiffs allege Defendants failed to reimburse the named
4 Plaintiff and Aggrieved Employees for their work-related cell phone and internet data
5 usage, mileage reimbursements for bank drop-offs, supply runs, and similar errands,
6 uniform purchases, face-masks, among other items.

7 50. This claim is also premised on Plaintiffs' right to pursue all Labor Code
8 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
9 *USA, Inc.* (2018) 23 Cal.App.5th 745.

10 **Derivative Claims.**

11 51. During all times relevant and continuing to the present, and pursuant to
12 company policy and/or practice and/or direction, Plaintiffs are informed and believe
13 and based thereupon allege that Aggrieved Employees did not receive their final
14 paychecks immediately upon involuntary termination or within 72 hours of voluntary
15 separation, were not paid final wages at the location of employment, and said final
16 paychecks did not include all wages due to the employee.

17 52. Plaintiffs' derivative claims are premised on Plaintiffs' right to pursue all
18 Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
19 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

20 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

21 53. This wage and hour representative action filed pursuant to PAGA, §§
22 2698, 2699 generally consists of the following group:

23 **All current or former employees Defendants employed in**
24 **California from April 12, 2022 to the present.**

25 54. All members of the represented group are referred to as the "Aggrieved
26 Employees."

27 55. The "Representative Period" means from **April 12, 2022 to the present.**

28 56. Plaintiff further alleges, on information and belief, that Aggrieved

1 Employees, did not receive all wages due at the time their employment ended with
2 Defendants.

3 57. On information and belief, Defendants current and former employees
4 were subject to wage and hour violations by Defendants, including failing to be paid
5 for all wages due.

6 58. California law provides that an employee may file an action against an
7 employer for penalties in connection with violations of the Labor Code and Wage
8 Orders provided the aggrieved employee file an action on behalf of himself or herself
9 and similarly situated current and former employees.

10 59. At all material times, Defendants and DOES 1 through 50 were and/or
11 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
12 Employees' employer, within the meaning of California Labor Code § 558, who
13 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
14 Labor Code or any provision regulating hours and days of work in any Order of the
15 Industrial Welfare Commission and, as such, are subject to penalties for each
16 underpaid employee as set for in Labor Code § 558.

17 60. As set forth in further detail below, because of the analysis and
18 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent the required
19 correspondence to the California Labor and Workforce Development Agency
20 (LWDA) and to Defendants informing Defendants of Plaintiffs' claims and Plaintiffs'
21 intent to pursue litigation.

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 61. Pursuant to the PAGA, on **August 21, 2023**, February 22, 2024, and
24 March 28, 2024, Plaintiffs, *et al.*, via counsel, sent correspondence to the LWDA and
25 Defendants via certified U.S. Mail indicating that Plaintiffs are pursuing the claims
26 alleged in this Complaint, true and correct copies of which are attached hereto as
27 **Exhibits 3-5.**

28 62. The statutory waiting period for Plaintiffs has expired for the letters

1 dated above and the LWDA did not serve Plaintiffs with notice of intent to assume
2 jurisdiction over the applicable penalty claims and did not provide notice as set forth
3 in Labor Code § 2699.3(a)(2)(A) within the statutory period.

4 63. Therefore, Plaintiffs have exhausted Plaintiffs' administrative remedies
5 to pursue claims and remedies as authorized by the PAGA.

6 64. The Causes of Action alleged herein are appropriately suited for a
7 Representative Action under PAGA (Labor Code § 2698, *et seq.*) because:

8 a. This action involves allegations of violations of provisions of
9 the California Labor Code that provide for a civil penalty to be
10 assessed and collected by the LWDA or any departments,

11 divisions, commissions, boards, agencies, or employees;

12 b. Plaintiffs are "aggrieved employees" because Plaintiffs were
13 employed by the alleged violator and had one or more of the
14 Labor Code violations alleged on this Complaint committed
15 against them; and

16 c. Plaintiffs have satisfied the procedural requirements of
17 Labor Code § 2699.3, as set forth above.

18 **FIRST CAUSE OF ACTION**

19 **Individual and Representative Claim via the PAGA for**

20 **Failure to Pay State Minimum/Regular Wages**

21 **in Violation of California Labor Code §§ 200, 227.3, 1194,**

22 **1197, 1197.1, 1811, and 1815, and the applicable Wage Order via § 1198**

23 (Against all Defendants)

24 65. Plaintiffs re-allege and incorporate by reference the foregoing allegations
25 as though set forth herein.

26 66. Pursuant to Labor Code §§ 200, 1194, 1197, 1197.1, 1811, 1815, and
27 1198, it is unlawful for a California employer to suffer or permit an employee to work
28 without paying wages for all hours worked, as required by the applicable Industrial

1 Welfare Commission (IWC) Wage Order.

2 67. Plaintiffs are informed and believe and based thereupon allege that
3 during all times relevant, Plaintiffs were not paid minimum/regular wages for all
4 hours suffered or permitted to work in violation of California law.

5 68. Plaintiffs are also informed and believe and based thereupon allege that
6 Defendants failed to pay Aggrieved Employees for all vacation/PTO pay they
7 accrued.

8 69. During all times relevant, Defendants were required to pay Plaintiffs and
9 other members of the Aggrieved Employees their respective hourly rate for all hours
10 worked and/or minimum wages per state law or applicable local law.

11 70. During all times relevant, at least one of the IWC Wage Orders applied
12 to Plaintiffs' employment with Defendants.

13 71. Pursuant to the applicable Wage Order, "hours worked" include the time
14 during which an employee is "suffered or permitted to work, whether or not required
15 to do so."

16 72. During the proposed Aggrieved Employees Period and based on the
17 misconduct alleged above, Plaintiffs are informed and believe and based thereupon
18 allege that Defendants did not pay Plaintiffs and Aggrieved Employees
19 minimum/regular wages for all hours suffered or permitted to work in violation of
20 state and/or local law, including but not limited to reporting time pay.

21 73. This claim is also premised on Plaintiffs' right to pursue all Labor Code
22 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
23 *USA, Inc.* (2018) 23 Cal.App.5th 745.

24 74. Labor Code § 1194 subdivision (a) permits an action to recover wages
25 because of the payment of a wage less than the minimum wage "applicable to the
26 employee" including attorneys' fees, costs, and interest.

27 75. At all material times, Defendants were and/or are Aggrieved
28 Employees' employers or persons acting on behalf of Aggrieved Employees'

1 employer, within the meaning of California Labor Code §§ 558 and 558.1, who
2 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
3 Labor Code or any provision regulating hours and days of work in any Order of the
4 Industrial Welfare Commission and, as such, are subject to civil penalties for each
5 underpaid employee as set for in Labor Code § 558.

6 76. In committing the violations of state law as herein alleged, Plaintiffs are
7 informed and believe based there upon allege that Defendants have knowingly and
8 willfully refused to perform their obligations to compensate Aggrieved Employees for
9 all wages earned and all hours worked.

10 77. As a direct result, Aggrieved Employees have suffered and continue to
11 suffer, substantial losses related to the use and enjoyment of such compensation,
12 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
13 compel Defendants to fully perform their obligations under state and/or local law.

14 78. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
15 them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per
16 pay period for the initial violation and two hundred (\$200.00) for each aggrieved
17 employee per pay period for each subsequent violation in which Defendants violated
18 the minimum wage and/or regular wage provisions of the Labor Code, including but
19 not limited to §§ 216, 218, 218.5, 227.3, 558, 1194, 1197, 1197.1, 1811, 1815,
20 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is all in
21 an amount to be shown according to proof at trial.

22 79. Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
23 seek to recover from Defendants, and each of them, penalties, attorneys' fees, and
24 costs incurred herein.

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SECOND CAUSE OF ACTION

**Representative Claim via the PAGA for
Failure to Pay State Overtime and/or Double-Time Compensation
in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, 510,
1182.12, 1194, 1194.2, 1197, 1197.1,
1811, 1815, and the Applicable IWC Wage Order via § 1198
(Against all Defendants)**

80. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

81. California law requires an employer to pay each employee for the actual hours worked. (Cal. Labor Code § 200.)

82. During all times relevant, one or more of the IWC Wage Orders applied to Plaintiffs' employment with Defendants.

83. Pursuant to § 2(K) of the applicable Wage Order(s), including Wage Order 15, "hours worked" include the time during which an employee is "suffered or permitted to work, whether or not required to do so."

84. Pursuant to Labor Code §§ 510, 1194, 1194.2, and § 3 of the applicable Wage Order(s), for each hour (or fraction thereof) an employee works up to forty (40) hours in a week and eight (8) hours in a day, the employer must pay the employee's regular hourly wage.

85. For each hour (or fraction thereof) an employee works over forty (40) hours in a week or more than eight (8) hours in a workday the employer must pay the rate of one and a half times the employee's regular hourly wage.

86. For each hour (or fraction thereof) an employee works more than twelve (12) hours in one day or more than eight (8) hours a day on the seventh consecutive day of work, the employer must compensate the employee at the rate of no less than twice the regular rate of pay for that employee.

87. During all times relevant, and pursuant to company policy and/or

1 practice and/or direction, Plaintiffs are informed and believe and based thereupon
2 allege that Defendants required Plaintiffs and the Aggrieved Employees to work more
3 than 40 hours per week and/or eight hours in a workday to which they had the right to
4 receive wages and Defendants did not pay Plaintiff and the Aggrieved Employees all
5 overtime compensation to which they should have received at the applicable wage
6 rate.

7 88. As alleged herein, Plaintiffs are informed and believe and based
8 thereupon allege that Plaintiffs allege Defendants failed to pay Aggrieved Employees
9 all overtime to which they had a right to receive.

10 89. This claim is premised on Plaintiffs' right to pursue all Labor Code
11 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
12 *USA, Inc.* (2018) 23 Cal.App.5th 745.

13 90. In committing the violations of state law as herein alleged, Plaintiffs are
14 informed and believe and based thereupon allege that Defendants have knowingly and
15 willfully refused to perform their obligations to compensate Aggrieved Employees for
16 all wages earned and all hours worked.

17 91. At all material times, Defendants were and/or are Aggrieved Employees'
18 employers or persons acting on behalf of Aggrieved Employees' employer, within the
19 meaning of California Labor Code §§ 558 and 558.1, who violated or caused to be
20 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
21 regulating hours and days of work in any Order of the Industrial Welfare Commission
22 and, as such, are subject to penalties for each underpaid employee as set for in Labor
23 Code § 558.

24 92. In committing the violations of state law as herein alleged, Plaintiffs are
25 informed and believe and based thereupon allege that Defendants have knowingly and
26 willfully refused to perform their obligations to compensate Aggrieved Employees for
27 all wages earned and all hours worked.

28 93. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,

1 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
2 period for the initial violation and two hundred (\$200.00) for each aggrieved
3 employee per pay period for each subsequent violation in which Defendants violated
4 the overtime provisions of the Labor Code, including but not limited to §§ 510, 558
5 and 1194, the exact amount of the penalties sought is in an amount to be shown
6 according to proof at trial.

7 94. Pursuant to Labor Code § 2699, *et seq.* Plaintiffs seek to recover from
8 Defendants, and each of them, penalties, attorneys' fees, and costs incurred herein.

9 **THIRD CAUSE OF ACTION**

10 **Individual and Representative Claim via the PAGA for** 11 **Failure to Timely Pay Earned Wages Upon Separation of Employment in** 12 **Violation of California Labor Code §§ 201, 201.3, 202, 203, 204, 204b, 204.2, 210,** 13 **218.5, 218.6, 256, 1198 and the applicable Wage Order**

14 (Against all Defendants)

15 95. Plaintiffs re-allege and incorporate by reference the foregoing allegations
16 as though set forth herein.

17 96. Pursuant to Labor Code § 201, "If an employer discharges an employee,
18 the wages earned and unpaid at the time of discharge are due and payable
19 immediately."

20 97. Pursuant to Labor Code § 202, "If an employee not having a written
21 contract for a definite period quits his or her employment, his or her wages shall
22 become due and payable not later than 72 hours thereafter, unless the employee has
23 given 72 hours previous notice of his or her intention to quit, in which case the
24 employee is entitled to his or her wages at the time of quitting."

25 98. Labor Code § 203 provides, in pertinent part: "If an employer willfully
26 fails to pay, without abatement or reduction, ... any wages of an employee who is
27 discharged or who quits, the wages of the employee shall continue as a penalty from
28 the due date thereof at the same rate until paid or until an action therefore is

1 commenced; but the wages shall not continue for more than 30 days. ..."

2 99. Pursuant to Labor Code § 204, "all wages ... earned by any person in
3 any employment are due and payable twice during each calendar month, on days
4 designated in advance by the employer as the regular paydays."

5 100. Pursuant to Labor Code § 204b, "Labor performed by a weekly-paid
6 employee during any calendar week and prior to or on the regular payday shall be
7 paid for not later than the regular payday of the employer for such weekly-paid
8 employee falling during the following calendar week."

9 101. Plaintiffs are informed and believe and based thereupon allege that
10 Defendants did not properly pay Plaintiff and Aggrieved Employees pursuant to the
11 requirements of Labor Code, including but not limited to §§ 201, 201.3, 202, 203,
12 204, 204b, 204.2, 210, 218.5, 218.6, 256 and thereby Plaintiffs seek the unpaid
13 wages.

14 102. To date, Plaintiffs are informed and believe and based thereupon allege
15 that Defendants have not paid terminated Aggrieved Employees all earned wages as
16 required by law.

17 103. At all material times, Defendants and DOES 1 through 50 were and/or
18 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
19 Employees' employer, within the meaning of California Labor Code § 558, who
20 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
21 Labor Code or any provision regulating hours and days of work in any Order of the
22 Industrial Welfare Commission and, as such, are subject to penalties for each
23 underpaid employee as set for in Labor Code § 558.

24 104. In committing the violations of state law as herein alleged, Defendants
25 have knowingly and willfully refused to perform their obligations to compensate
26 Aggrieved Employees for all wages earned and all hours worked.

27 105. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
28 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay

1 period for the initial violation and two hundred (\$200.00) for each aggrieved
2 employee per pay period for each subsequent violation in which Defendants violated
3 the Labor Code, including but not limited to §§ 201, 201.3, 202, 203, 204, 204b,
4 204.2, 210, 218.5, 218.6, 256.

5 106. As alleged above, Plaintiffs are informed and believe and based
6 thereupon allege that Defendants have deprived Plaintiffs and Aggrieved Employees
7 of their rightfully earned wages as a direct and proximate result of Defendants' failure
8 and refusal to pay said compensation and for the reasons alleged in this Complaint.

9 107. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
10 Employees pursuant to the PAGA.

11 **FOURTH CAUSE OF ACTION**

12 **Representative Claim for Penalties via the PAGA for** 13 **Failure to Comply with the Meal and Rest Break Requirements Under Labor** 14 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order** 15 **(Against all Defendants)**

16 108. Plaintiffs re-allege and incorporate by reference the foregoing allegations
17 as though set forth herein.

18 109. Based on the misconduct alleged in this Complaint, Plaintiffs are
19 informed and believe and based thereupon allege that Defendants failed to pay
20 Plaintiff and Aggrieved Employees premium pay for all their missed meal and rest
21 breaks and failed to comply with Labor Code §§ 226.7, 512, and 1198.

22 110. Because of Defendants' illegal pay practices, Plaintiffs are informed and
23 believe and based thereupon allege that said Defendants failed to pay Plaintiff and
24 Aggrieved Employees for all meal and rest breaks despite their requirement under
25 California law and, as such, all culpable Defendants are required to pay Plaintiff and
26 Aggrieved Employees for rest break and/or meal break premium wages.

27 111. Plaintiffs are informed and believe and based thereupon allege that
28 Defendants also failed to provide Plaintiff, and Aggrieved Employees, legally-

1 compliant meal and rest periods, or compensation in lieu thereof, during their
2 employment by said Defendants.

3 112. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
4 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
5 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
6 pay period for each subsequent violation in which all culpable Defendants violated
7 Cal. Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in
8 an amount to be shown according to proof at trial.

9 113. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
10 Employees pursuant to the PAGA.

11 **FIFTH CAUSE OF ACTION**

12 **Individual and Representative Claim for Penalties via the PAGA for**

13 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,**

14 **and the applicable IWC Wage Order**

15 (Against all Defendants)

16 114. Plaintiffs re-allege and incorporate by reference the foregoing allegations
17 as though set forth herein.

18 115. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
19 pertinent part, that every employer shall, “semimonthly or at the time of each
20 payment of wages, shall furnish to his or her employees, either as a detachable part of
21 the check, draft, or voucher paying the employee's wages, or separately if wages are
22 paid by personal check or cash, an accurate itemized statement in writing showing (1)
23 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
24 piece-rate units earned and any applicable piece rate if the employee is paid on a
25 piece-rate basis, (4) all deductions, provided that all deductions made on written
26 orders of the employee may be aggregated and shown as one item, (5) net wages
27 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
28 name of the employee and only the last four digits of his or her social security

1 number..., (8) the name and address of the legal entity that is the employer. . . , and
2 (9) all applicable hourly rates in effect during the pay period and the corresponding
3 number of hours worked at each hourly rate by the employee and, beginning July 1,
4 2013, if the employer is a temporary services employer as defined in Section 201.3,
5 the rate of pay and the total hours worked for each temporary services assignment. . .”
6 (Labor Code § 226 subdivision (a).)

7 116. Upon information and belief, during all times relevant to this action,
8 Defendants did not provide accurate wage statements throughout the Aggrieved
9 Employees Period and, thus, Plaintiffs assert this claim both as a stand-alone claim
10 and derivative of their unpaid wage claims.

11 117. On numerous occasions, an exact amount by which will be proven at
12 trial, Defendants violated various provisions of § 226, including but not limited to
13 subdivisions (a)(1), (a)(2), (a)(4), (a)(5), (a)(8), and (a)(9) by failing to provide
14 Plaintiffs and the Aggrieved Employees accurate itemized statement in writing
15 accurately showing gross wages earned, total hours worked by the employee, net
16 wages earned, rates of pay, among other things.

17 118. This claim is also premised on Plaintiffs’ right to pursue all Labor Code
18 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
19 *USA, Inc.* (2018) 23 Cal.App.5th 745.

20 119. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
21 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
22 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
23 pay period for each subsequent violation in which all culpable Defendants violated
24 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
25 of the applicable penalty is all in an amount to be shown according to proof at trial.

26 120. Wherefore, Plaintiffs request all remedies available to the Aggrieved
27 Employees pursuant to the PAGA.
28

1 **SIXTH CAUSE OF ACTION**

2 **Individual and Representative Claim for Penalties via the PAGA**
3 **For Failure to Maintain Required Records in Violation of California**
4 **Labor Code §§ 226, 432, 1174, 1198.5, and the**
5 **Applicable Wage Order and/or § 1198**
6 **(Against All Defendants)**

7 121. Plaintiffs re-allege and incorporate by reference the foregoing allegations
8 as though set forth herein.

9 122. California Labor Code § 226, subdivision (b), requires employers doing
10 business in the State of California to “afford current and former employees the right
11 to inspect or copy records pertaining to their employment, upon a reasonable request
12 to the employer...” and subdivision (c), requires employers to produce such records
13 within “21 calendar days from the date of the request.”

14 123. Plaintiff maintains the records requested fall within the meaning of
15 Labor Code § 226 because, among other reasons, the requested documents are
16 “records pertaining to [his] employment.”

17 124. California Labor Code § 432, subdivision (b), requires employers doing
18 business in the State of California to provide current, former employees, and
19 applicants copies of all written instruments they sign upon request.

20 125. Plaintiff maintains the records requested fall within the meaning of
21 Labor Code § 432 because some of the records requested constitute written
22 instruments the Plaintiff signed.

23 126. California Labor Code § 1198.5, *et seq.*, similarly provides current and
24 former employees the right to inspect their employee personnel records and requires
25 the employer to provide the employee access to such records no later than 30 calendar
26 days from the date the employer receives a written request.

27 127. Plaintiff maintains the records requested fall within the meaning of
28 Labor Code § 1198.5, *et seq.* because they were part of and/or related to Plaintiff’s

1 personnel file within the meaning of Labor Code § 1198.5.

2 128. Section 7 of the applicable Wage Order requires every employer to
3 maintain time and payroll records.

4 129. Plaintiffs are informed and believe and based thereon alleges that during
5 all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders
6 and with Labor Code § 1174 by failing to maintain certain records which employers
7 are required to maintain, including but not limited to, all wage records.

8 130. This claim is also premised on Plaintiffs' right to pursue all Labor Code
9 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
10 *USA, Inc.* (2018) 23 Cal.App.5th 745.

11 131. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
12 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
13 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
14 pay period for each subsequent violation in which all culpable Defendants violated
15 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
16 of the applicable penalty is all in an amount to be shown according to proof at trial.

17 132. For the reasons alleged herein, Plaintiffs seek all available remedies
18 pursuant to the PAGA in an amount to be proven at trial including but not limited to
19 penalties, attorneys' fees, costs, and interest pursuant to law.

20 **SEVENTH CAUSE OF ACTION**

21 **Representative Claim for Penalties via the PAGA Claim for**

22 **Failure to Reimburse Business Expenses**

23 **in Violation of Labor Code §§ 1198 and 2802**

24 **(Against All Defendants)**

25 133. Plaintiffs re-allege and incorporate by reference the foregoing allegations
26 as though set forth herein.

27 134. Pursuant to California Labor Code § 2802, an employer must indemnify
28 its employees "for all necessary expenditures or losses incurred by the employee in

1 direct consequence of the discharge of his or her duties”

2 135. On information and belief, Plaintiffs made necessary expenditures and
3 incurred losses as a direct consequence of the discharge of their duties and in
4 obedience to the directions of Defendants.

5 136. On information and belief, Defendants knew Plaintiffs were incurring the
6 expenses and were responsible for reimbursing Aggrieved Employees for their
7 expenditures and losses as a direct consequence of the discharge of their duties, but
8 failed to do so.

9 137. This claim is premised on Plaintiffs’ right to pursue all Labor Code
10 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
11 *USA, Inc.* (2018) 23 Cal.App.5th 745.

12 138. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
13 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
14 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
15 pay period for each subsequent violation in which all culpable Defendants violated
16 the applicable Cal. Labor Code provisions alleged in this Complaint, including but not
17 limited to Labor Code §§ 2802 and 1198, the exact amount of the applicable penalty
18 is all in an amount to be shown according to proof at trial, which Plaintiffs seek.

19 139. For the reasons alleged herein, Plaintiffs seek all available remedies
20 pursuant to the PAGA in an amount to be proven at trial including but not limited to
21 penalties, attorneys’ fees, costs, and interest pursuant to law.
22
23
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28

1 **EIGHTH CAUSE OF ACTION**

2 **Individual and Representative Claim for Penalties via the PAGA**

3 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

4 **Failure to Provide Seating in Violation of**

5 **California Labor Code § 1198 and the Applicable Wage Order**

6 (Against all Defendants)

7 140. Plaintiffs re-allege and incorporate by reference the foregoing allegations
8 as though set forth herein.

9 141. California Labor Code § 1198 makes it illegal to employ an employee
10 under conditions of labor that are prohibited by the applicable wage order.

11 142. California Labor Code § 1198 requires that “. . . the standard conditions
12 of labor fixed by the commission shall be the . . . standard conditions of labor for
13 employees. The employment of any employee . . . under conditions of labor
14 prohibited by the order is unlawful.”

15 143. The applicable wage order provides that “[a]ll working employees shall
16 be provided with suitable seats when the nature of the work reasonably permits the
17 use of seats.”

18 144. The applicable wage order also provides that “[w]hen employees are not
19 engaged in the active duties of their employment and the nature of the work requires
20 standing, an adequate number of suitable seats shall be placed in reasonable proximity
21 to the work area and employees shall be permitted to use such seats when it does not
22 interfere with the performance of their duties.”

23 145. The nature of Plaintiffs’ job duties permitted them to be seated.

24 146. Furthermore, for Aggrieved Employees whose work duties occasionally
25 required standing, Plaintiffs are informed and believe and based thereupon allege that
26 there was not an adequate number of suitable seats in reasonable proximity to the
27 work area to permit employees to use such seats when doing so would not interfere
28 with the performance of their duties.

1 147. Plaintiffs allege Defendants violated California Labor Code § 1198 and
2 the applicable wage order because Defendants provided inadequate seating
3 arrangements.

4 148. Pursuant to the civil penalties provided for in California Labor Code §§
5 2699 (f) and (g), Plaintiffs allege Defendants are liable for civil penalties of one
6 hundred dollars (\$100) for each aggrieved employee per pay period for the initial
7 violation and two hundred dollars (\$200) for each aggrieved employee per pay period
8 for each subsequent violation, plus costs and attorneys' fees for violation of California
9 Labor Code § 1198.

10 149. For the reasons alleged herein, Plaintiffs seek all available remedies
11 pursuant to the PAGA in an amount to be proven at trial including but not limited to
12 penalties, attorneys' fees, costs, and interest pursuant to law.

13 **NINTH CAUSE OF ACTION**

14 **Individual and Representative Claim for Penalties via the PAGA**

15 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

16 **Individual and Representative Claim for PAGA Penalties and Wage**

17 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**

18 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,**
19 **203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)**
20 **of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,**
21 **230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)**
22 **of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of**
23 **Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602,**
24 **603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,**
25 **1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the appliable Wage**
26 **Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293,**
27 **1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309,**
28 **1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section**

150. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

151. This claim is premised on Plaintiffs’ right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

152. Pursuant to Labor Code § 2699, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

153. As Plaintiffs' Labor Code § 212 claim, Plaintiffs allege Defendants have a pattern and practice of requiring Aggrieved Employees to incur fees to withdraw wages from their employer-issued debit cards in violation of Labor Code § 212.

154. Plaintiffs are informed and believe, and based thereon allege, that because of the acts alleged above and Defendants' violations of the Labor Code provisions alleged herein, Plaintiffs are entitled to penalties under Labor Code §§ 2698 and 2699.

155. Plaintiffs are “aggrieved employees” because Plaintiffs were employed by the alleged violator and had one or more of the alleged violations committed against Plaintiffs, and therefore are properly suited to represent the interests of other current and former Represented Employees.

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

6 157. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
7 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
8 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
9 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
10 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
11 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
12 subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551,
13 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970,
14 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the
15 applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290,
16 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
17 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of
18 Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5,
19 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5,
20 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801,
21 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,
22 and 6399.7.

23 158. Labor Code § 558 establishes a civil penalty as follows: Any employer
24 or other person acting on behalf of an employer who violates, or causes to be violated,
25 a section of this chapter or any provision regulating hours and days of work in any
26 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
27 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
28 violation, fifty dollars (\$50) for each underpaid employee for each pay period for

1 which the employee was underpaid in addition to an amount sufficient to recover
2 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
3 each underpaid employee for each pay period for which the employee was underpaid
4 in addition to an amount sufficient to recover underpaid wages; and (3) wages
5 recovered pursuant to this section shall be paid to the affected employee.

6 159. As to Plaintiffs' sick pay claims, Defendant failed to record the named
7 Plaintiff's accumulated sick pay in violation of Labor Code § 246 until July 28, 2023
8 or alternatively reported the wrong amount because Defendant included hours
9 accumulated when Plaintiff was employed by Family Dollar Tree, Inc., a different
10 employer.

11 160. Related to the named Plaintiffs' sick pay claim, according to the named
12 Defendant's Assistant General Counsel, Pamela E. Woodside, the named Defendant
13 carried over the year-to-date hours from the named Plaintiff's previous employer,
14 Family Dollar, Inc., because they are "sister corporations." (Pamela E. Woodside
15 email of Aug. 21, 2023.)

16 161. By the time the named Plaintiff transferred to the named Defendant's
17 workplace, however, she had worked more than 90 hours and had thus accrued three
18 hours of sick pay per Labor Code § 246(b)(3).

19 162. Based on Defendant's Assistant General Counsel's email, the named
20 Defendant failed to apply three hours sick pay the named Plaintiff accrued over to the
21 wage statements that the named Defendant issued to the named Plaintiff in violation
22 of Labor Code § 246(i).

23 163. Also related to the named Plaintiffs' sick pay claim is Defendants'
24 failure to pay sick pay at the regular rate of pay because of the failure to include all
25 forms of remuneration including but not limited to nondiscretionary bonus pay, meal
26 break premiums, etc. and the Defendants' overall failure to provide sick leave/PTO.

27 164. Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs seek to recover
28 attorneys' fees, costs, civil penalties, and wages on behalf of Plaintiff and other

1 current and former Represented Employees as alleged herein in an amount to be
2 shown according to proof at trial and within the jurisdictional limits of this Court.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 5 1. That Defendants be found liable to the Plaintiffs;
- 6 2. For all remedies available to the Plaintiffs under the applicable provisions of
7 the Labor Code via the PAGA, i.e., Labor Code § 2698, *et seq.* including an award of
8 attorneys' fees, costs, interest, liquidated damages, damages, penalties and waiting
9 time penalties according to proof to the extent permitted by law;
- 10 3. For maximum civil penalties available under the Labor Code and applicable
11 Wage Order as described more particularly in this Complaint, including but not
12 limited to penalties pursuant to Labor Code § 558;
- 13 4. That Aggrieved Employees be awarded reasonable attorneys' fees where
14 available by law, including but not limited to pursuant to Labor Code §§ 2698, *et seq.*,
15 Code of Civil Procedure § 1021.5, and/or other applicable laws; and
- 16 5. For any other relief the Court may deem just, proper, and equitable.

17 Dated: July 24, 2024

Law Office of Thomas D. Rutledge

18
19 By: Thomas D. Rutledge
20 /s/Thomas D. Rutledge, Esq.
21 Attorneys for Plaintiffs
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Exhibit 1

Scope: Enterprise 1	Scope Size: 23118	Nav: Base	Thu Jul 20, 2023 4:10 PM	Logout	Help	About
Submit Reset						



Hourly Associate - 06397 (06397)

Sign Off: ☒ Supervisor[View Audit](#)Period: [Previous](#) **July 9, 2023 - July 15, 2023 (HISTORICAL)** [Next](#) [Work Summary](#)

Timesheet Exceptions

DESCRIPTION	APPROVAL	AUDIT DATE & TIME	CHANGE BY
Timesheet has No Pay Activity			

Timesheet Earnings Summary

AMOUNT	ADJUSTMENT	Paid Hours:	Hours	[Decimal]
			0:00	[0.00]
			TOTAL	

Timesheet Work Summary

	Sun 7/9	Mon 7/10	Tue 7/11	Wed 7/12	Thu 7/13 4:00 PM-7:30 PM	Fri 7/14	Sat 7/15	Totals
Sched:								
Worked Hours:								
Shift Times:								
Other:								
Comments:								
	Submit Reset							

Scope: Enterprise 1	Scope Size: 23118	Nav: Base	Thu Jul 20, 2023 4:11 PM	Logout	Help	About
Submit	Timesheet Summary - POTTER, CORINA M					
Reset						



Hourly Associate - 06397 (06397)

Sign Off: ☐ Supervisor[View Audit](#)Period: [◀ Previous](#) **July 16, 2023 - July 22, 2023** [Next ▶](#)[▶ Work Summary](#)

Timesheet Exceptions

DESCRIPTION

APPROVAL

AUDIT DATE & TIME

CHANGE BY

No unapproved exceptions exist for this timesheet.

Timesheet Earnings Summary

AMOUNT	ADJUSTMENT	Paid Hours:	Hours	[Decimal]
			0:00	[0.00]
			TOTAL	

Timesheet Work Summary

	Sun 7/16	Mon 7/17	Tue 7/18	Wed 7/19	Thu 7/20	Fri 7/21	Sat 7/22	Totals
Sched:		6:30 PM-10:30 PM				2:30 PM-7:00 PM		
Worked Hours:								8:30
Shift Times:								0:00
Other:								

Total Projected Hours: 4:30

Comments:

Submit

Reset

Exhibit 2



DOLLAR TREE STORES INC • 500 VOLVO PARKWAY • CHESAPEAKE, VA 23320
757-321-5000

Wage rates are determined by Dollar Tree

Statement of Earnings and Deductions

Pay Statement Number: 0245602299

Net Pay: \$63.08

Name: CORINA M POTTER

Social Security Number: XXX-XX-6388

Company Number: 2

Location: DOLLARTREE 06397

Employee ID: 007576398

Period Start: 7/9/2023

Period End: 7/22/2023

Payment Date: 7/28/2023

Federal and State Tax Withholdings

Type	Status	Allowances	Additional
State	Head of Household	3	\$0.00
Federal	Head of Household	0	\$0.00

Earnings

Description	Rate	Hours	Current	YTD
REG W	15.50	4.45	\$68.98	\$1,710.14
REG SH W	0.00	0.00	\$0.00	\$33.00
TOTAL HOURS WORKED		4.45		
TOTAL EARNINGS			\$68.98	\$1,743.14

Pay Statement Summary

Description	Current	YTD
TOTAL EARNINGS	\$68.98	\$1,743.14
TOTAL TAX	- \$5.90	- \$154.32
TOTAL PRE-TAX	- \$0.00	- \$0.00
TOTAL OTHER (DEDUCTIONS)	- \$0.00	- \$0.00
TOTAL NET EARNINGS	\$63.08	\$1,588.82

Tax Deductions

Description	Current	YTD
CADS W/H	\$0.62	\$15.68
CA W/H	\$0.00	\$5.30
SS Tax	\$4.28	\$108.07
FED TAX	\$0.00	\$0.00
MEDI W/H	\$1.00	\$25.27
TOTAL TAX	\$5.90	\$154.32

Accruals Balance

Balance Type	Hours
SICK	3.743000

Deposit Information

Type of Account	Account Number	Amount
DEPOSIT	*****9928	\$63.08

If you have enrolled in DailyPay, the account number listed above is the last 4 digits of your DailyPay account number, not your bank account.

View your pay stub on-line anytime at <http://www.doculivery.com/DollarTree>

You will need to provide your login ID and your password.

Exhibit 3

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone: (619) 886-7224
thomasrutledgelaw@gmail.com

August 21, 2023

File No. 757.01

VIA INTERNET UPLOAD

Department of Industrial Relations
Labor Workforce Development Agency
455 Golden Gate Avenue, 10th Floor
Accounting Unit
San Francisco, California 94102

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70191640000193371037)

President/HR
Dollar Tree Stores, Inc.
500 Volvo Parkway
Chesapeake, Virginia 23320

Re: *Potter, et al. v. Dollar Tree Stores, Inc., et al.*

Dear Sir or Madam:

This office represents Corina Potter and similarly aggrieved employees. Accordingly, we are informing you of our representation and ask that all further communication regarding this matter be directed to our attention at the address located on this letterhead and that no contact be made directly with our client. This letter is sent pursuant to the provisions of California Labor Code §§ 2699, *et seq.*

I. FACTS & NATURE OF THE DISPUTE.

This is a representative action seeking penalties for Defendants' violations of various California Labor Code provisions. The details of our client's claims are discussed in the enclosed draft Complaint, which allegations are incorporated by reference as though set forth herein.

II. § 2699, ET SEQ., LABOR CODE VIOLATIONS.

Our client has numerous legal claims against the abovementioned parties. In summary, Plaintiff are informed and believe and therefore allege that Defendants issued Plaintiff and fellow aggrieved employees inaccurate wage statements, failed to pay them in a timely manner, failed to pay them all wages including but not limited to overtime, minimum wage, meal and rest premium pay. Further investigation and formal discovery will likely uncover other claims and additional facts supporting the liability.

The details of our client's Labor Code § 2699 claims are discussed in the enclosed draft Complaint, which allegations are incorporated by reference and incorporated herein as though set forth herein. These violations include, but are not limited to the following: Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7 and the Applicable Wage Order.

Please take notice, if Defendant maintains that any of the named Plaintiff's claims lack merit, provide all facts in support of your contention within 30 days of the date of this letter. Otherwise, Plaintiff will presume the claims asserted herein have merit and will proceed accordingly.

III. CONCLUSION.

Please take notice this letter is intended to exhaust the pre-litigation requirements set forth under California Labor Code §§ 2699, *et seq.* By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of § 2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer and the employee within the time required by statute regarding whether it intends to investigate the alleged violation. (Labor Code § 2699.3(a)(2)(B).) If the LWDA advises it will not investigate, or if no notice is provided within the time required by statute, the employee may file a lawsuit invoking the provisions

under Labor Code § 2699. (Labor Code §2699.3(a)(2)(A).) It is the intention of this office to file a civil complaint and to bring the appropriate claims under Labor Code § 2699 seeking the remedies for the Labor Code violations referenced in this letter and its enclosure should your office not address these matters within the proscribed time.

We write this letter subject to and without waiver of our client's rights and remedies, all of which we expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

Very truly yours,

Thomas D. Rutledge
/s/Thomas D. Rutledge

Enclosure

Cc: Corina Potter (via e-mail)

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO-CENTRAL DIVISION

CORINA POTTER, as the State of
California's designated proxy under the
Private Attorneys General Act (PAGA)
and on behalf of others,

Plaintiffs,

vs.

DOLLAR TREE STORES, INC., a
Virginia corporation; and DOES 1
through 50 inclusive

Defendants.

Case No.:

**REPRESENTATIVE ACTION
COMPLAINT VIA THE PAGA
FOR:**

- 1. Failure to Pay State
Minimum/Regular Wages;**
- 2. Failure to Pay State Overtime;**
- 3. Failure to Make Payments Within
the Required Time;**
- 4. Meal and Rest Break Labor Code
Violations;**
- 5. Failure to Provide Accurate Wage
Statements;**
- 6. Failure to Maintain Records;**
- 7. Failure to Reimburse Work
Related Expenses;**
- 8. Inadequate Seating; and**
- 9. Claim for miscellaneous Labor
Code Violations via the PAGA.**

1 Plaintiff CORINA POTTER, in her capacity as the State of California's
2 designated proxy under the Private Attorneys General Act and on behalf of Aggrieved
3 Employees (collectively the "Plaintiffs"), alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is a representative action under the Private Attorneys General Act
6 (PAGA) of 2004, as amended, Labor Code §§ 2698, *et seq.*

7 2. By this action, Plaintiffs seek only civil penalties, not individualized
8 damages or individualized PAGA penalties for the named Plaintiff, on behalf of
9 Aggrieved Employees for Defendants' violations of the California Labor Code.
10 (*Adolph v. Uber Technologies, Inc.* (Sup. Ct. 274671, Jul 17, 2023) 2023 Cal. LEXIS
11 4099; *Piplack v. In-N-Out Burgers* (2023) 88 Cal.App.5th 1281; *Galarsa v. Dolgen*
12 *California, LLC* (2023) 88 Cal.App.5th 639; *Gregg v. Uber Technologies, Inc.* (2023)
13 89 Cal.App.5th 786; *Million Seifu v. Lyft, Inc.* (2023) 89 Cal.App.5th 1129 ; *Prostek*
14 *v. Lincare Inc.* (E.D. Cal. March 21, 2023) 2023 U.S. Dist. LEXIS 48155.)

15 **JURISDICTION AND VENUE**

16 3. Pursuant to Article VI, § 10 of the California Constitution, subject matter
17 jurisdiction is proper in the Superior Court of California, State of California because
18 Plaintiffs allege claims arising under California law.

19 4. This Court has jurisdiction over the Defendants because each is an
20 association, corporation, business entity, or individual that conducts substantial
21 business in the State of California, County of San Diego.

22 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is
23 proper in the Superior Court of California for the County of San Diego because
24 Defendant is a Virginia corporation doing business in California and which entity
25 does not report to the Secretary of State where it maintains its principal place of
26 business in California and Defendants conduct substantial business in the County of
27 San Diego regardless. (*Easton v. Superior Court* (1970) 12 Cal.App.3d 243, 246 [a
28 foreign corporation that has not designated a principal office within the state may be

sued in any county in the state].)

THE PARTIES

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

7. Plaintiff CORINA POTTER is an individual that resides in California.

8. Defendant DOLLAR TREE STORES, INC. is a Virginia corporation that during all times relevant was doing business in California.

9. The true names and capacities, whether individual, corporate, associate, or otherwise of the Defendants named herein as DOES 1 through 50, are unknown to Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious names pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will seek leave to amend this Complaint to allege the true names and capacities of DOES 1 through 50 when the correct identities are ascertained. Plaintiffs are informed and believes, and based thereon alleges, that each of the DOE Defendants is in some manner liable to Plaintiffs for the events and actions alleged herein. All named Defendants and DOES 1 through 50 are collectively referred to as “Defendants.”

10. Plaintiffs are informed and believe, and based thereon allege that at all times relevant herein each Defendant was acting as an agent, joint venture, or as an integrated enterprise and/or alter ego for each of the other Defendants, and each was a co-conspirator with respect to the acts and the wrongful conduct alleged herein, so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other Defendants.

11. Plaintiffs are informed and believe, and based thereon allege that each Defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other Defendant.

12. Plaintiffs are informed and believe, and based thereon allege that each

1 of the Defendants was an agent, managing general partner, managing member, owner,
2 co-owner, partner, employee, and/or representative of each of the Defendants, and
3 were at all times material hereto, acting within the purpose and scope of such agency,
4 employment, contract and/or representation, and that each of them are jointly and
5 severally liable to Plaintiffs for the acts alleged herein

6 13. Plaintiffs are informed and believe, and based thereon allege that each
7 of the Defendants are liable to Plaintiffs under legal theories and doctrines including
8 but not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4)
9 alter ego, based in part, on the facts set forth below.

10 14. Plaintiffs are informed and believe, and based thereon allege that each of
11 the named Defendants are part of an integrated enterprise and have acted or currently
12 act as the employer and/or joint employer of Plaintiffs, making each of them liable for
13 the wage and hour violations alleged herein.

14 **GENERAL ALLEGATIONS**

15 15. Defendants are generally in the retail store business.

16 16. At all times relevant, Defendants employed Plaintiff POTTER as a store
17 employee on an hourly basis as a non-exempt nonunion worker who performed work
18 in California from about June 7, 2023 to the present.

19 17. The named Plaintiff is an “aggrieved employee” because Defendants
20 employed Plaintiff in California and Plaintiff experienced one or more of the alleged
21 Labor Code violations committed against the Plaintiff, and therefore the named
22 Plaintiff is properly suited to act on behalf the state, and collect civil penalties for all
23 violations committed against the Represented Employees, who are also aggrieved
24 employees as defined by Labor Code § 2699(c).

25 18. California law provides that an aggrieved employee may file a
26 representative action under the PAGA against an employer for civil penalties in
27 connection with violations of the Labor Code and Wage Order.

28 19. On information and belief, current and former employees of Defendants

suffered from Defendants' Labor Code violations.

Wage Statement Claims.

20. From at least one year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege that Defendants issued the named Plaintiff and other Aggrieved Employees erroneous wage and earning statements.

21. For example, for the pay period of May 28, 2023, to June 10, 2023, Defendants issued the named Plaintiff a wage and earning statement that said her year-to-date earnings were \$1,515.14, when it is legally impossible to have accumulated such wages since she had only started working for the named Defendant on June 7, 2023.

22. Defendants repeated the foregoing problem on at least two other wage and earning statements for the named Plaintiffs and likely many others.

23. In addition to the foregoing stand-alone claim under Labor Code § 226, Plaintiffs are informed and believe, and therefore allege that Plaintiff's paystubs and those of similarly situated employees of Defendants were inaccurate because Defendants failed to pay them all wages to which they had a right to receive, as alleged herein, supporting a derivative claim under Labor Code § 226.

24. As to Plaintiffs' PAGA case, this claim is also premised, in part, on Plaintiff's right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Wage Claims.

25. From at least one year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege, that Defendants employed failed to pay Aggrieved Employees all wages, e.g., overtime, minimum wages, etc., as required by law.

1 26. For example, during the pay period of June 25, 2023, to July 8, 2023, the
2 named Plaintiff reported for work for what she believed would be a full eight hour
3 day of work, but instead she only worked 3.85 hours and Defendants failed to pay her
4 for reporting time pay. (IWC Wage Order § 5.)

5 27. This claim is also premised on Plaintiff's right to pursue all Labor Code
6 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
7 *USA, Inc.* (2018) 23 Cal.App.5th 745.

8 **Failure to Pay Meal and Rest Break Premiums.**

9 28. From at least one year before the filing of this action and continuing to
10 the present, and pursuant to company policy and/or practice and/or direction,
11 Plaintiffs are informed and believe and based thereupon allege that Defendants
12 deprived Plaintiffs and other hourly employees from taking lawful meal and rest
13 periods and did not pay and refused to pay premium pay to workers.

14 29. Plaintiffs are informed and believe and based thereupon allege that also
15 because of Defendants' policy, Defendants prevented Aggrieved Employees from
16 taking all their uninterrupted rest breaks to which they had the right to enjoy in an
17 amount to be proven at trial, and Defendants failed to pay them premium pay as
18 required under California law. (*See Augustus v. ABM Security Services* (2016) 2
19 Cal.5th 257.)

20 30. This claim is premised on Plaintiff's right to pursue all Labor Code
21 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
22 *USA, Inc.* (2018) 23 Cal.App.5th 745.

23 **Unreimbursed Work-Related Expense Claims.**

24 31. From at least one year before the filing of this action and continuing to
25 the present, and pursuant to company policy and/or practice and/or direction,
26 Plaintiffs are informed and believe and based thereupon allege that Defendants failed
27 to reimburse its employees for work related expenses.

28 32. This claim is premised on Plaintiff's right to pursue all Labor Code

1 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
2 *USA, Inc.* (2018) 23 Cal.App.5th 745.

3 **Derivative Claims.**

4 33. From at least one year before the filing of this action and continuing to
5 the present, and pursuant to company policy and/or practice and/or direction,
6 Plaintiffs are informed and believe and based thereupon allege that Aggrieved
7 Employees did not receive their final paychecks immediately upon involuntary
8 termination or within 72 hours of voluntary separation, were not paid final wages at
9 the location of employment, and said final paychecks did not include all wages due to
10 the employee.

11 34. Plaintiffs' derivative claims are premised on Plaintiffs' right to pursue all
12 Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
13 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

14 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

15 35. This wage and hour representative action filed pursuant to PAGA, §§
16 2698, 2699 generally consists of the following group:

17 **All current or former employees Defendants employed in**
18 **California from August 21, 2022 to the present.**

19 36. All members of the represented group are referred to as the "Aggrieved
20 Employees."

21 37. The "Representative Period" means from **August 21, 2022 to the**
22 **present.**

23 38. Plaintiff further alleges, on information and belief, that Aggrieved
24 Employees, did not receive all wages due at the time their employment ended with
25 Defendants.

26 39. On information and belief, Defendants current and former employees
27 were subject to wage and hour violations by Defendants, including failing to be paid
28 for all wages due.

1 40. California law provides that an employee may file an action against an
2 employer for penalties in connection with violations of the Labor Code and Wage
3 Orders provided the aggrieved employee file an action on behalf of himself or herself
4 and similarly situated current and former employees.

5 41. At all material times, Defendants and DOES 1 through 50 were and/or
6 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
7 Employees' employer, within the meaning of California Labor Code § 558, who
8 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
9 Labor Code or any provision regulating hours and days of work in any Order of the
10 Industrial Welfare Commission and, as such, are subject to penalties for each
11 underpaid employee as set for in Labor Code § 558.

12 42. As set forth in further detail below, because of the analysis and
13 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent the required
14 correspondence to the California Labor and Workforce Development Agency
15 ("LWDA") and to Defendants informing Defendants of Plaintiffs' claims and
16 Plaintiffs' intent to pursue litigation.

17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 43. Pursuant to the PAGA, on **August 21, 2023**, Plaintiffs, *et al.*, via
19 counsel, sent correspondence to the LWDA and Defendants via certified U.S. Mail
20 indicating that Plaintiffs are pursuing the claims alleged in this Complaint.

21 44. The statutory period for Plaintiffs has not expired for the letter alleged
22 above and the LWDA did not serve Plaintiffs with notice of intent to assume
23 jurisdiction over the applicable penalty claims and did not provide notice as set forth
24 in Labor Code § 2699.3(a)(2)(A) within the statutory period.

25 45. Therefore, Plaintiffs have not exhausted Plaintiffs' administrative
26 remedies to pursue claims and remedies as authorized by the PAGA, but once the
27 statutory waiting period expires, Plaintiffs will file an amended Complaint.

28 46. The Causes of Action alleged herein are appropriately suited for a

1 Representative Action under PAGA (Labor Code § 2698, *et seq.*) because:

2 a. This action involves allegations of violations of provisions of
3 the California Labor Code that provide for a civil penalty to be
4 assessed and collected by the LWDA or any departments,

5 divisions, commissions, boards, agencies, or employees;

6 b. Plaintiffs are “aggrieved employees” because Plaintiffs were
7 employed by the alleged violator and had one or more of the
8 Labor Code violations alleged on this Complaint committed
9 against them; and

10 c. Plaintiffs have satisfied the procedural requirements of
11 Labor Code § 2699.3, as set forth above.

12 **FIRST CAUSE OF ACTION**

13 **Representative Claim via the PAGA for**
14 **Failure to Pay State Minimum/Regular Wages**
15 **in Violation of California Labor Code §§ 200, 227.3, 1194,**
16 **1197, 1811, and 1815, and the applicable Wage Order**

17 (Against all Defendants)

18 47. Plaintiffs re-allege and incorporate by reference the foregoing allegations
19 as though set forth herein.

20 48. Pursuant to Labor Code §§ 200, 1194, 1197, 1197.1, 1811, 1815, and
21 1198, it is unlawful for a California employer to suffer or permit an employee to work
22 without paying wages for all hours worked, as required by the applicable Industrial
23 Welfare Commission (IWC) Wage Order.

24 49. Labor Code § 227.3 provides that “[u]nless otherwise provided by a
25 collective bargaining agreement, whenever a contract of employment or employer
26 policy provides for vacation time, all vested vacation shall be paid to him as wages in
27 accordance with such contract or employment or employer policy respecting
28 eligibility or time served; provided, however, that an employment contract or

1 employer policy shall not provide for the forfeiture of vested vacation time upon
2 termination.”

3 50. Plaintiffs are informed and believe and based thereupon allege that
4 during all times relevant, Plaintiffs were not paid minimum/regular wages for all
5 hours suffered or permitted to work in violation of California law.

6 51. Plaintiffs are also informed and believe and based thereupon allege that
7 Defendants failed to pay Aggrieved Employees for all vacation/PTO pay they
8 accrued.

9 52. During all times relevant, Defendants were required to pay Plaintiffs and
10 other members of the Aggrieved Employees their respective hourly rate for all hours
11 worked and/or minimum wages per state law or applicable local law.

12 53. During all times relevant, at least one of the IWC Wage Orders applied
13 to Plaintiffs’ employment with Defendants.

14 54. Pursuant to the applicable Wage Order, “hours worked” include the time
15 during which an employee is “suffered or permitted to work, whether or not required
16 to do so.”

17 55. During the proposed Aggrieved Employees Period and based on the
18 misconduct alleged above, Plaintiffs are informed and believe and based thereupon
19 allege that Defendants did not pay Plaintiffs and Aggrieved Employees
20 minimum/regular wages for all hours suffered or permitted to work in violation of
21 state and/or local law, including but not limited to reporting time pay.

22 56. This claim is also premised on Plaintiffs’ right to pursue all Labor Code
23 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
24 *USA, Inc.* (2018) 23 Cal.App.5th 745.

25 57. Labor Code § 1194 subdivision (a) permits an action to recover wages
26 because of the payment of a wage less than the minimum wage “applicable to the
27 employee” including attorneys’ fees, costs, and interest.

28 58. At all material times, Defendants were and/or are Aggrieved

1 Employees' employers or persons acting on behalf of Aggrieved Employees'
2 employer, within the meaning of California Labor Code §§ 558 and 558.1, who
3 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
4 Labor Code or any provision regulating hours and days of work in any Order of the
5 Industrial Welfare Commission and, as such, are subject to civil penalties for each
6 underpaid employee as set for in Labor Code § 558.

7 59. In committing the violations of state law as herein alleged, Plaintiffs are
8 informed and believe based there upon allege that Defendants have knowingly and
9 willfully refused to perform their obligations to compensate Aggrieved Employees for
10 all wages earned and all hours worked.

11 60. As a direct result, Aggrieved Employees have suffered and continue to
12 suffer, substantial losses related to the use and enjoyment of such compensation,
13 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
14 compel Defendants to fully perform their obligations under state and/or local law.

15 61. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
16 them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per
17 pay period for the initial violation and two hundred (\$200.00) for each aggrieved
18 employee per pay period for each subsequent violation in which Defendants violated
19 the minimum wage and/or regular wage provisions of the Labor Code, including but
20 not limited to §§ 216, 218, 218.5, 227.3, 558, 1194, 1197, 1197.1, 1811, 1815,
21 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is all in
22 an amount to be shown according to proof at trial.

23 62. Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
24 seek to recover from Defendants, and each of them, penalties, attorneys' fees, and
25 costs incurred herein.
26
27
28

SECOND CAUSE OF ACTION

Representative Claim via the PAGA for

**Failure to Pay State Overtime and/or Double-Time Compensation
in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, 510,
1182.12, 1194, 1194.2, 1197, 1197.1,
1811, 1815, and the Applicable IWC Wage Order**

(Against all Defendants)

63. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

64. California law requires an employer to pay each employee for the actual hours worked. (Cal. Labor Code § 200.)

65. During all times relevant, one or more of the IWC Wage Orders applied to Plaintiffs' employment with Defendants.

66. Pursuant to § 2(K) of the applicable Wage Order(s), including Wage Order 15, "hours worked" include the time during which an employee is "suffered or permitted to work, whether or not required to do so."

67. Pursuant to Labor Code §§ 510, 1194, 1194.2, and § 3 of the applicable Wage Order(s), for each hour (or fraction thereof) an employee works up to forty (40) hours in a week and eight (8) hours in a day, the employer must pay the employee's regular hourly wage.

68. For each hour (or fraction thereof) an employee works over forty (40) hours in a week or more than eight (8) hours in a workday the employer must pay the rate of one and a half times the employee's regular hourly wage.

69. For each hour (or fraction thereof) an employee works more than twelve (12) hours in one day or more than eight (8) hours a day on the seventh consecutive day of work, the employer must compensate the employee at the rate of no less than twice the regular rate of pay for that employee.

70. During all times relevant, and pursuant to company policy and/or

1 practice and/or direction, Plaintiffs are informed and believe and based thereupon
2 allege that Defendants required Plaintiffs and the Aggrieved Employees to work more
3 than 40 hours per week and/or eight hours in a workday to which they had the right to
4 receive wages and Defendants did not pay Plaintiff and the Aggrieved Employees all
5 overtime compensation to which they should have received at the applicable wage
6 rate.

7 71. As alleged herein, Plaintiffs are informed and believe and based
8 thereupon allege that Plaintiffs allege Defendants failed to pay Aggrieved Employees
9 all overtime to which they had a right to receive.

10 72. This claim is premised on Plaintiffs' right to pursue all Labor Code
11 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
12 *USA, Inc.* (2018) 23 Cal.App.5th 745.

13 73. In committing the violations of state law as herein alleged, Plaintiffs are
14 informed and believe and based thereupon allege that Defendants have knowingly and
15 willfully refused to perform their obligations to compensate Aggrieved Employees for
16 all wages earned and all hours worked.

17 74. At all material times, Defendants were and/or are Aggrieved Employees'
18 employers or persons acting on behalf of Aggrieved Employees' employer, within the
19 meaning of California Labor Code §§ 558 and 558.1, who violated or caused to be
20 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
21 regulating hours and days of work in any Order of the Industrial Welfare Commission
22 and, as such, are subject to penalties for each underpaid employee as set for in Labor
23 Code § 558.

24 75. In committing the violations of state law as herein alleged, Plaintiffs are
25 informed and believe and based thereupon allege that Defendants have knowingly and
26 willfully refused to perform their obligations to compensate Aggrieved Employees for
27 all wages earned and all hours worked.

28 76. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,

1 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
2 period for the initial violation and two hundred (\$200.00) for each aggrieved
3 employee per pay period for each subsequent violation in which Defendants violated
4 the overtime provisions of the Labor Code, including but not limited to §§ 510, 558
5 and 1194, the exact amount of the penalties sought is in an amount to be shown
6 according to proof at trial.

7 77. Pursuant to Labor Code § 2699, *et seq.* Plaintiffs seek to recover from
8 Defendants, and each of them, penalties, attorneys' fees, and costs incurred herein.

9 **THIRD CAUSE OF ACTION**

10 **Representative Claim via the PAGA for**

11 **Failure to Timely Pay Earned Wages Upon Separation of Employment in** 12 **Violation of California Labor Code §§ 201, 201.3, 202, 203, 204, 204b, 204.2, 210,** 13 **218.5, 218.6, 256, 1198 and the applicable Wage Order**

14 (Against all Defendants)

15 78. Plaintiffs re-allege and incorporate by reference the foregoing allegations
16 as though set forth herein.

17 79. Pursuant to Labor Code § 201, "If an employer discharges an employee,
18 the wages earned and unpaid at the time of discharge are due and payable
19 immediately."

20 80. Pursuant to Labor Code § 202, "If an employee not having a written
21 contract for a definite period quits his or her employment, his or her wages shall
22 become due and payable not later than 72 hours thereafter, unless the employee has
23 given 72 hours previous notice of his or her intention to quit, in which case the
24 employee is entitled to his or her wages at the time of quitting."

25 81. Labor Code § 203 provides, in pertinent part: "If an employer willfully
26 fails to pay, without abatement or reduction, ... any wages of an employee who is
27 discharged or who quits, the wages of the employee shall continue as a penalty from
28 the due date thereof at the same rate until paid or until an action therefore is

1 commenced; but the wages shall not continue for more than 30 days. ..."

2 82. Pursuant to Labor Code § 204, "all wages ... earned by any person in
3 any employment are due and payable twice during each calendar month, on days
4 designated in advance by the employer as the regular paydays."

5 83. Pursuant to Labor Code § 204b, "Labor performed by a weekly-paid
6 employee during any calendar week and prior to or on the regular payday shall be
7 paid for not later than the regular payday of the employer for such weekly-paid
8 employee falling during the following calendar week."

9 84. Plaintiffs are informed and believe and based thereupon allege that
10 Defendants did not properly pay Plaintiff and Aggrieved Employees pursuant to the
11 requirements of Labor Code, including but not limited to §§ 201, 201.3, 202, 203,
12 204, 204b, 204.2, 210, 218.5, 218.6, 256 and thereby Plaintiffs seek the unpaid
13 wages.

14 85. To date, Plaintiffs are informed and believe and based thereupon allege
15 that Defendants have not paid terminated Aggrieved Employees all earned wages as
16 required by law.

17 86. At all material times, Defendants and DOES 1 through 50 were and/or
18 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
19 Employees' employer, within the meaning of California Labor Code § 558, who
20 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
21 Labor Code or any provision regulating hours and days of work in any Order of the
22 Industrial Welfare Commission and, as such, are subject to penalties for each
23 underpaid employee as set for in Labor Code § 558.

24 87. In committing the violations of state law as herein alleged, Defendants
25 have knowingly and willfully refused to perform their obligations to compensate
26 Aggrieved Employees for all wages earned and all hours worked.

27 88. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
28 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay

1 period for the initial violation and two hundred (\$200.00) for each aggrieved
2 employee per pay period for each subsequent violation in which Defendants violated
3 the Labor Code, including but not limited to §§ 201, 201.3, 202, 203, 204, 204b,
4 204.2, 210, 218.5, 218.6, 256.

5 89. As alleged above, Plaintiffs are informed and believe and based
6 thereupon allege that Defendants have deprived Plaintiffs and Aggrieved Employees
7 of their rightfully earned wages as a direct and proximate result of Defendants' failure
8 and refusal to pay said compensation and for the reasons alleged in this Complaint.

9 90. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
10 Employees pursuant to the PAGA.

11 **FOURTH CAUSE OF ACTION**

12 **Representative Claim for Penalties via the PAGA for** 13 **Failure to Comply with the Meal and Rest Break Requirements Under Labor** 14 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order** 15 **(Against all Defendants)**

16 91. Plaintiffs re-allege and incorporate by reference the foregoing allegations
17 as though set forth herein.

18 92. Based on the misconduct alleged in this Complaint, Plaintiffs are
19 informed and believe and based thereupon allege that Defendants failed to pay
20 Plaintiff and Aggrieved Employees premium pay for all their missed meal and rest
21 breaks and failed to comply with Labor Code §§ 226.7, 512, and 1198.

22 93. Because of Defendants' illegal pay practices, Plaintiffs are informed and
23 believe and based thereupon allege that said Defendants failed to pay Plaintiff and
24 Aggrieved Employees for all meal and rest breaks despite their requirement under
25 California law and, as such, all culpable Defendants are required to pay Plaintiff and
26 Aggrieved Employees for rest break and/or meal break premium wages.

27 94. Plaintiffs are informed and believe and based thereupon allege that
28 Defendants also failed to provide Plaintiff, and Aggrieved Employees, legally-

1 compliant meal and rest periods, or compensation in lieu thereof, during their
2 employment by said Defendants.

3 95. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
4 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
5 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
6 pay period for each subsequent violation in which all culpable Defendants violated
7 Cal. Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in
8 an amount to be shown according to proof at trial.

9 96. Wherefore, the Plaintiffs request all remedies available to the Aggrieved
10 Employees pursuant to the PAGA.

11 **FIFTH CAUSE OF ACTION**

12 **Representative Claim for Penalties via the PAGA for** 13 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,** 14 **and the applicable IWC Wage Order** 15 **(Against all Defendants)**

16 97. Plaintiffs re-allege and incorporate by reference the foregoing allegations
17 as though set forth herein.

18 98. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
19 pertinent part, that every employer shall, “semimonthly or at the time of each
20 payment of wages, shall furnish to his or her employees, either as a detachable part of
21 the check, draft, or voucher paying the employee's wages, or separately if wages are
22 paid by personal check or cash, an accurate itemized statement in writing showing (1)
23 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
24 piece-rate units earned and any applicable piece rate if the employee is paid on a
25 piece-rate basis, (4) all deductions, provided that all deductions made on written
26 orders of the employee may be aggregated and shown as one item, (5) net wages
27 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
28 name of the employee and only the last four digits of his or her social security

1 number..., (8) the name and address of the legal entity that is the employer. . . , and
2 (9) all applicable hourly rates in effect during the pay period and the corresponding
3 number of hours worked at each hourly rate by the employee and, beginning July 1,
4 2013, if the employer is a temporary services employer as defined in Section 201.3,
5 the rate of pay and the total hours worked for each temporary services assignment. . .”
6 (Labor Code § 226 subdivision (a).)

7 99. Upon information and belief, during all times relevant to this action,
8 Defendants did not provide accurate wage statements throughout the Aggrieved
9 Employees Period and, thus, Plaintiffs assert this claim both as a stand-alone claim
10 and derivative of their unpaid wage claims.

11 100. On numerous occasions, an exact amount by which will be proven at
12 trial, Defendants violated various provisions of § 226, including but not limited to
13 subdivisions (a)(1), (a)(2), (a)(4), (a)(5), (a)(8), and (a)(9) by failing to provide
14 Plaintiffs and the Aggrieved Employees accurate itemized statement in writing
15 accurately showing gross wages earned, total hours worked by the employee, net
16 wages earned, rates of pay, among other things.

17 101. This claim is also premised on Plaintiffs’ right to pursue all Labor Code
18 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
19 *USA, Inc.* (2018) 23 Cal.App.5th 745.

20 102. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
21 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
22 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
23 pay period for each subsequent violation in which all culpable Defendants violated
24 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
25 of the applicable penalty is all in an amount to be shown according to proof at trial.

26 103. Wherefore, Plaintiffs request all remedies available to the Aggrieved
27 Employees pursuant to the PAGA.
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For Failure to Maintain Required Records in Violation of California Labor Code §§ 1174 and the Applicable Wage Order and/or § 1198

104. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

106. Plaintiffs are informed and believe and based thereon alleges that during all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders and with Labor Code § 1174 by failing to maintain certain records which employers are required to maintain, including but not limited to, all wage records.

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (619) 886-7224

109. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to the PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

SEVENTH CAUSE OF ACTION

Representative Claim for Penalties via the PAGA Claim for

Failure to Reimburse Business Expenses

in Violation of Labor Code §§ 1198 and 2802

(Against All Defendants)

110. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

111. Pursuant to California Labor Code § 2802, an employer must indemnify its employees “for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties”

112. On information and belief, Plaintiffs made necessary expenditures and incurred losses as a direct consequence of the discharge of their duties and in obedience to the directions of Defendants.

113. On information and belief, Defendants knew Plaintiffs were incurring the expenses and were responsible for reimbursing Unreimbursed Expenses Aggrieved Employees for their expenditures and losses as a direct consequence of the discharge of their duties, but failed to do so.

114. This claim is premised on Plaintiffs’ right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

115. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated the applicable Cal. Labor Code provisions alleged in this Complaint, including but not limited to Labor Code §§ 2802 and 1198, the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial, which Plaintiffs seek.

116. For the reasons alleged herein, Plaintiffs seek all available remedies

1 pursuant to the PAGA in an amount to be proven at trial including but not limited to
2 penalties, attorneys' fees, costs, and interest pursuant to law.

3 **EIGHTH CAUSE OF ACTION**

4 **Representative Claim for Penalties via the PAGA**
5 **Under California Labor Code §§ 2698, 2699, *et seq.* for**
6 **Failure to Provide Seating in Violation of**
7 **California Labor Code 1198, and the Applicable Wage Order**
8 **(Against all Defendants)**

9 117. Plaintiffs re-allege and incorporate by reference the foregoing allegations
10 as though set forth herein.

11 118. California Labor Code § 1198 makes it illegal to employ an employee
12 under conditions of labor that are prohibited by the applicable wage order.

13 119. California Labor Code § 1198 requires that "... the standard conditions
14 of labor fixed by the commission shall be the ... standard conditions of labor for
15 employees. The employment of any employee ... under conditions of labor
16 prohibited by the order is unlawful."

17 120. The applicable wage order provides that "[a]ll working employees shall
18 be provided with suitable seats when the nature of the work reasonably permits the
19 use of seats."

20 121. The applicable wage order also provides that "[w]hen employees are not
21 engaged in the active duties of their employment and the nature of the work requires
22 standing, an adequate number of suitable seats shall be placed in reasonable proximity
23 to the work area and employees shall be permitted to use such seats when it does not
24 interfere with the performance of their duties."

25 122. The nature of Plaintiffs' job duties permitted them to be seated.

26 123. Furthermore, for Aggrieved Employees whose work duties occasionally
27 required standing, Plaintiffs are informed and believe and based thereupon allege that
28 there was not an adequate number of suitable seats in reasonable proximity to the

1 work area to permit employees to use such seats when doing so would not interfere
2 with the performance of their duties.

3 124. Plaintiffs allege Defendants violated California Labor Code § 1198 and
4 the applicable wage order because Defendants provided inadequate seating
5 arrangements.

6 125. Pursuant to the civil penalties provided for in California Labor Code §§
7 2699 (f) and (g), Plaintiffs allege Defendants are liable for civil penalties of one
8 hundred dollars (\$100) for each aggrieved employee per pay period for the initial
9 violation and two hundred dollars (\$200) for each aggrieved employee per pay period
10 for each subsequent violation, plus costs and attorneys' fees for violation of California
11 Labor Code § 1198.

12 126. For the reasons alleged herein, Plaintiffs seek all available remedies
13 pursuant to the PAGA in an amount to be proven at trial including but not limited to
14 penalties, attorneys' fees, costs, and interest pursuant to law.

15 **NINTH CAUSE OF ACTION**

16 **Representative Claim for Penalties via the PAGA**

17 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

18 **Individual and Representative Claim for PAGA Penalties and Wage**

19 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**

20 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,**
21 **203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)**
22 **of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,**
23 **230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)**
24 **of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of**
25 **Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602,**
26 **603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,**
27 **1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the appliable Wage**
28 **Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293,**

1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309,
1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section
1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6,
1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651,
and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2751, 2800, 2801,
2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,
and 6399.7 and the Applicable Wage Order

(Against all Defendants)

127. Plaintiffs re-allege and incorporate by reference the foregoing allegations
as though set forth herein.

128. This claim is premised on Plaintiffs' right to pursue all Labor Code
claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services
USA, Inc.* (2018) 23 Cal.App.5th 745.

129. Pursuant to Labor Code § 2699, any provision of the Labor Code that
provides for a civil penalty to be assessed and collected by the LWDA or any of its
departments, divisions, commissions, boards, agencies or employees for violation of
the code may, as an alternative, be recovered through a civil action brought by an
aggrieved employee on behalf of himself or herself and other current or former
employees pursuant to the procedures specified in Labor Code § 2699.3.

130. Plaintiffs are informed and believe, and based thereon allege, that
because of the acts alleged above and Defendants' violations of the Labor Code
provisions alleged herein, Plaintiffs are entitled to penalties under Labor Code §§
2698 and 2699.

131. Plaintiffs are "aggrieved employees" because Plaintiffs were employed
by the alleged violator and had one or more of the alleged violations committed
against Plaintiffs, and therefore are properly suited to represent the interests of other
current and former Represented Employees.

132. Labor Code § 2699(f) imposes upon Defendants, and each of them, civil

1 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for
2 initial violations, and two hundred dollars (\$200) per pay period, per aggrieved
3 employee for subsequent violations for all Labor Code provisions for which a civil
4 penalty is not specifically provided.

5 133. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
6 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
7 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
8 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
9 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
10 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
11 subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551,
12 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970,
13 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the
14 applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290,
15 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
16 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of
17 Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5,
18 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5,
19 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801,
20 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,
21 and 6399.7.

22 134. Labor Code § 558 establishes a civil penalty as follows: Any employer
23 or other person acting on behalf of an employer who violates, or causes to be violated,
24 a section of this chapter or any provision regulating hours and days of work in any
25 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
26 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
27 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
28 which the employee was underpaid in addition to an amount sufficient to recover

1 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
2 each underpaid employee for each pay period for which the employee was underpaid
3 in addition to an amount sufficient to recover underpaid wages; and (3) wages
4 recovered pursuant to this section shall be paid to the affected employee.

5 135. As to the named Plaintiff's sick pay claim, according to the named
6 Defendant's Assistant General Counsel, Pamela E. Woodside, the named Defendant
7 carried over the year-to-date hours from the named Plaintiff's previous employer,
8 Family Dollar, Inc., because they are "sister corporations." (Pamela E. Woodside
9 email of Aug. 21, 2023.)

10 136. By the time the named Plaintiff transferred to the named Defendant's
11 workplace, however, she had worked more than 90 hours and had thus accrued three
12 hours of sick pay per Labor Code § 246(b)(3).

13 137. Based on Defendant's Assistant General Counsel's email, the named
14 Defendant failed to apply three hours sick pay the named Plaintiff accrued over to the
15 wage statements that the named Defendant issued to the named Plaintiff in violation
16 of Labor Code § 246(i).

17 138. Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs seek to recover
18 attorneys' fees, costs, civil penalties, and wages on behalf of Plaintiff and other
19 current and former Represented Employees as alleged herein in an amount to be
20 shown according to proof at trial and within the jurisdictional limits of this Court.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 23 1. That Defendants be found liable to the Plaintiffs;
- 24 2. For all remedies available to the Plaintiffs under the applicable provisions of
25 the Labor Code via the PAGA, i.e., Labor Code § 2698, *et seq.* including an award of
26 attorneys' fees, costs, interest, liquidated damages, damages, penalties and waiting
27 time penalties according to proof to the extent permitted by law;
- 28 3. For maximum civil penalties available under the Labor Code and applicable

1 Wage Order as described more particularly in this Complaint, including but not
2 limited to penalties pursuant to Labor Code § 558;

3 4. That Aggrieved Employees be awarded reasonable attorneys' fees where
4 available by law, including but not limited to pursuant to Labor Code §§ 2698, *et seq.*,
5 Code of Civil Procedure § 1021.5, and/or other applicable laws; and

6 5. For any other relief the Court may deem just, proper, and equitable.

7 Dated: August 21, 2023

Law Office of Thomas D. Rutledge

8
9 By: Thomas D. Rutledge
10 /s/Thomas D. Rutledge, Esq.
11 Attorneys for Plaintiffs
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Exhibit 4

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
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thomasrutledgelaw@gmail.com

February 22, 2024

File No. 757.01

VIA INTERNET UPLOAD

Department of Industrial Relations
Labor Workforce Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, California 95814

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70221670000314383081)

President/HR
Dollar Tree Stores, Inc.
500 Volvo Parkway
Chesapeake, Virginia 23320

Re: *Potter, et al. v. Dollar Tree Stores, Inc., et al.*
SDSC Case No.: 37-2023-00047808-CU-OE-CTL
LWDA Case No. LWDA-CM-976622-23

Dear Sir or Madam:

This letter shall serve as an amended notice pursuant to the California Private Attorney General Act (PAGA), California Labor Code Section 2699, *et seq.*, regarding Plaintiff's notice sent on August 21, 2023. This amendment generally adds more facts in support of Plaintiffs' Labor Code claims.

I. FACTS & NATURE OF THE DISPUTE.

This is a representative action seeking penalties for Defendants' violations of various California Labor Code provisions. The details of our client's claims are discussed in the enclosed draft Complaint, which allegations are incorporated by reference as though set forth herein.

II. § 2699, ET SEQ., LABOR CODE VIOLATIONS.

Our client has numerous legal claims against the abovementioned parties. In summary, Plaintiff are informed and believe and therefore allege that Defendants issued Plaintiff and fellow aggrieved employees inaccurate wage statements, failed to pay them in a timely manner, failed to pay them all wages including but not limited to overtime, minimum wage, meal and rest premium pay. Further investigation and formal discovery will likely uncover other claims and additional facts supporting the liability.

The details of our client's Labor Code § 2699 claims are discussed in the enclosed draft Complaint, which allegations are incorporated by reference and incorporated herein as though set forth herein. These violations include, but are not limited to the following: Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, 1198.5, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7 and the Applicable Wage Order.

Please take notice, if Defendant maintains that any of the named Plaintiff's claims lack merit, provide all facts in support of your contention within 30 days of the date of this letter. Otherwise, Plaintiff will presume the claims asserted herein have merit and will proceed accordingly.

III. CONCLUSION.

Please take notice this letter is intended to exhaust the pre-litigation requirements set forth under California Labor Code §§ 2699, *et seq.* By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of § 2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer and the employee within the time required by statute regarding whether it intends to investigate the alleged violation. (Labor Code § 2699.3(a)(2)(B).) If the LWDA advises it will not investigate, or if no notice is provided within the time required by statute, the employee may file a lawsuit invoking the provisions

under Labor Code § 2699. (Labor Code §2699.3(a)(2)(A).) It is the intention of this office to file a civil complaint and to bring the appropriate claims under Labor Code § 2699 seeking the remedies for the Labor Code violations referenced in this letter and its enclosure should your office not address these matters within the proscribed time.

We write this letter subject to and without waiver of our client's rights and remedies, all of which we expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

Very truly yours,

Thomas D. Rutledge
/s/Thomas D. Rutledge

Enclosure

Cc: Corina Potter (via email)
Ryan Derry, Esquire (via email)

Thomas D. Rutledge (SBN 200497)
Attorney-at-Law
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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO-CENTRAL DIVISION

CORINA POTTER, individually, on
behalf of Aggrieved Employees, and as
the State of California's designated
proxy under the Private Attorneys
General Act (PAGA) and on behalf of
others,

Plaintiffs,

vs.

DOLLAR TREE STORES, INC., a
Virginia corporation; and DOES 1
through 50 inclusive

Defendants.

Case No.: 37-2023-00047808-CU-OE-CTL

Judge: Hon. Katherine Bacal
Dept.: C-69

**REPRESENTATIVE ACTION
FIRST AMENDED COMPLAINT
VIA THE PAGA FOR:**

- 1. Failure to Pay State Minimum/Regular Wages;**
- 2. Failure to Pay State Overtime;**
- 3. Failure to Make Payments Within the Required Time;**
- 4. Meal and Rest Break Labor Code Violations;**
- 5. Failure to Provide Accurate Wage Statements;**
- 6. Failure to Maintain Records;**
- 7. Failure to Reimburse Work Related Expenses;**
- 8. Inadequate Seating; and**
- 9. Claim for miscellaneous Labor Code Violations via the PAGA.**

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2 Plaintiff CORINA POTTER, in her capacity as the State of California's
3 designated proxy under the Private Attorneys General Act, on behalf of herself, and
4 on behalf of Aggrieved Employees (collectively the "Plaintiffs"), alleges the
5 following:

6 **NATURE OF THE ACTION**

7 1. This is a representative action under the Private Attorneys General Act
8 (PAGA) of 2004, as amended, Labor Code §§ 2698, *et seq.*

9 2. By this action, Plaintiffs seek civil penalties on behalf of herself and
10 Aggrieved Employees for Defendants' violations of the California Labor Code.
11 (*Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104.)

12 **JURISDICTION AND VENUE**

13 3. Pursuant to Article VI, § 10 of the California Constitution, subject matter
14 jurisdiction is proper in the Superior Court of California, State of California because
15 Plaintiffs allege claims arising under California law.

16 4. This Court has jurisdiction over the Defendants because each is an
17 association, corporation, business entity, or individual that conducts substantial
18 business in the State of California, County of San Diego.

19 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is
20 proper in the Superior Court of California for the County of San Diego because
21 Defendant is a Virginia corporation doing business in California and which entity
22 does not report to the Secretary of State where it maintains its principal place of
23 business in California and Defendants conduct substantial business in the County of
24 San Diego regardless. (*Easton v. Superior Court* (1970) 12 Cal.App.3d 243, 246 [a
25 foreign corporation that has not designated a principal office within the state may be
26 sued in any county in the state]; see also *Crestwood Behavioral Health, Inc. v.*
27 *Superior Court (Fragoza)* (2021) 60 Cal.App.5th 1069, 1075 citing *Battaglia*
28 *Enterprises, Inc. v. Superior Court* (2013) 215 Cal.App.4th 309, 313, ["The plaintiff's

choice of venue is presumptively correct.]”)

THE PARTIES

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

7. Plaintiff CORINA POTTER is an individual that resides in California.

8. Defendant DOLLAR TREE STORES, INC. is a Virginia corporation that during all times relevant was doing business in California.

9. The true names and capacities, whether individual, corporate, associate, or otherwise of the Defendants named herein as DOES 1 through 50, are unknown to Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious names pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will seek leave to amend this Complaint to allege the true names and capacities of DOES 1 through 50 when the correct identities are ascertained. Plaintiffs are informed and believes, and based thereon alleges, that each of the DOE Defendants is in some manner liable to Plaintiffs for the events and actions alleged herein. All named Defendants and DOES 1 through 50 are collectively referred to as “Defendants.”

10. Plaintiffs are informed and believe, and based thereon allege that at all times relevant herein each Defendant was acting as an agent, joint venture, or as an integrated enterprise and/or alter ego for each of the other Defendants, and each was a co-conspirator with respect to the acts and the wrongful conduct alleged herein, so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other Defendants.

11. Plaintiffs are informed and believe, and based thereon allege that each Defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other Defendant.

12. Plaintiffs are informed and believe, and based thereon allege that each

1 of the Defendants was an agent, managing general partner, managing member, owner,
2 co-owner, partner, employee, and/or representative of each of the Defendants, and
3 were at all times material hereto, acting within the purpose and scope of such agency,
4 employment, contract and/or representation, and that each of them are jointly and
5 severally liable to Plaintiffs for the acts alleged herein

6 13. Plaintiffs are informed and believe, and based thereon allege that each
7 of the Defendants are liable to Plaintiffs under legal theories and doctrines including
8 but not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4)
9 alter ego, based in part, on the facts set forth below.

10 14. Plaintiffs are informed and believe, and based thereon allege that each of
11 the named Defendants are part of an integrated enterprise and have acted or currently
12 act as the employer and/or joint employer of Plaintiffs, making each of them liable for
13 the wage and hour violations alleged herein.

14 **GENERAL ALLEGATIONS**

15 15. Defendants are generally in the retail store business.

16 16. At all times relevant, Defendants employed Plaintiff POTTER as a
17 cashier paid on an hourly basis as a non-exempt nonunion worker who performed
18 work in California from about June 6, 2023 to the present.

19 17. The named Plaintiff is an “aggrieved employee” because Defendants
20 employed Plaintiff in California and Plaintiff experienced one or more of the alleged
21 Labor Code violations committed against the Plaintiff, and therefore the named
22 Plaintiff is properly suited to act on behalf the state, and collect civil penalties for all
23 violations committed against the Represented Employees, who are also aggrieved
24 employees as defined by Labor Code § 2699(c).

25 18. California law provides that an aggrieved employee may file a
26 representative action under the PAGA against an employer for civil penalties in
27 connection with violations of the Labor Code and Wage Order.

28 19. On information and belief, current and former employees of Defendants

suffered from Defendants' Labor Code violations.

Failure to Provide Payroll Records and Plaintiff's Personnel File.

20. On July 12, 2023, Plaintiff, via counsel, sent a letter to DEFENDANT EMPLOYER requesting access to Plaintiff's payroll records and employee personnel file.

21. On August 2, 2023, DEFENDANT EMPLOYER, via counsel, responded to the foregoing letter via email providing only some of Plaintiff's records.

22. On September 26, 2023, Plaintiff, via counsel, sent correspondence to DEFENDANT EMPLOYER indicating the employee personnel file production was incomplete and instructing DEFENDANT EMPLOYER to provide missing records.

23. On September 29, 2023, DEFENDANT EMPLOYER, via counsel, responded to the foregoing letter via email providing only some of Plaintiff's records.

24. Plaintiffs are informed and believe, and therefore alleges that, to date, DEFENDANT EMPLOYER has failed to produce the remaining portions of Plaintiff's personnel file including but not limited to Plaintiff's time records and employer handbooks

Wage Statement Claims.

25. During all times relevant and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege that Defendants issued the named Plaintiff and other Aggrieved Employees erroneous wage and earning statements.

26. For example, for the pay period of May 28, 2023, to June 10, 2023, Defendants issued the named Plaintiff a wage and earning statement that said Plaintiff's year-to-date earnings were \$1,515.14, when it is legally impossible to have accumulated such wages because Plaintiff had only started working for the named Defendant on or about June 6, 2023.

27. Defendants repeated the foregoing problem on at least two other wage and earning statements for the named Plaintiffs and likely many others.

1 28. In addition to the foregoing stand-alone claim under Labor Code § 226,
2 Plaintiffs are informed and believe, and therefore allege that Plaintiff's paystubs and
3 those of similarly situated employees of Defendants were inaccurate because
4 Defendants failed to pay them all wages to which they had a right to receive, as
5 alleged herein, supporting a derivative claim under Labor Code § 226.

6 29. Furthermore, Plaintiff alleges that Defendant violated Labor Code §
7 226(a), which provides, in relevant part, "An employer, semimonthly or at the time of
8 each payment of wages, shall furnish to their employee, either *as a detachable part of*
9 *the check*, draft, or voucher paying the employee's wages, or separately if wages are
10 paid by personal check or cash, an accurate itemized statement..." (Emphasis added.)

11 30. During all times relevant, Defendant did not issue Plaintiff paper wage
12 statements and, instead, required and continues to require Plaintiff and Aggrieved
13 Employees to obtain access to their wage statements only online (and not via the cash
14 register or some other method).

15 31. Because of a pay related problem in the month of October 2023,
16 however, Plaintiff needed access to her wage statements and despite several attempts
17 Plaintiff was and continues to be unable to obtain online access.

18 32. Plaintiff also contacted Defendant several times via telephone to request
19 access to Plaintiff's wage statements and, to date, Defendant has failed to respond.

20 33. Accordingly, because Defendant deprived Plaintiff from obtaining
21 access to her October 2023 wage statements, Plaintiff alleges Defendant violated
22 Labor Code § 226.

23 34. As to Plaintiffs' PAGA case, this claim is also premised, in part, on
24 Plaintiff's right to pursue all Labor Code claims on behalf of Aggrieved Employees
25 per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

26 **Wage Claims.**

27 35. During all times relevant and continuing to the present, and pursuant to
28 company policy and/or practice and/or direction, Plaintiffs are informed and believe,

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1 and therefore allege, that Defendants employed failed to pay Aggrieved Employees
2 all wages, e.g., overtime, minimum wages, etc., as required by law.

3 36. For example, during the pay period from July 9, 2023 to July 22, 2023,
4 the named Plaintiff worked 12 hours (see attached as **Exhibit 1** copies of the named
5 Plaintiff's timesheets), yet Defendant only paid the named Plaintiff for 4.45 hours,
6 thus underpaying wages in the amount of (7.55 x \$15.50=\$117.03). (See attached as
7 **Exhibit 2** a copy of the named Plaintiff's corresponding wage statement.)

8 37. By way of further example, during the pay periods ending October 6,
9 2023 and October 20, 2023, respectively, Plaintiff worked the same amount-number
10 of hours, but in one paycheck Defendant paid her \$112.69 and the other \$178.18, a
11 large discrepancy Plaintiff believes is an underpayment of wages.

12 38. Further, Plaintiffs allege that Defendants failed to pay Aggrieved
13 Employees all wages during the onboarding process.

14 39. For example, the named Plaintiff and presumably all Aggrieved
15 Employees normally go through an in-person job interview before Defendants hire
16 them.

17 40. Once Defendants extended the named Plaintiff and Aggrieved
18 Employees' job offers, Defendants required the named Plaintiff/Aggrieved
19 Employees to complete onboarding paperwork, such as filling out tax documents,
20 employment related forms, etc., during which time Defendants failed to compensate
21 the named Plaintiff/Aggrieved Employees for their work completing the onboarding
22 paperwork.

23 41. Other "off-the-clock" uncompensated labor common situation consisted
24 of Aggrieved Employees doing bank drops, supply runs, and work-related travel,
25 among other tasks Aggrieved Employees performed yet whose labor Defendants
26 failed to compensate.

27 42. Another example of "off-the-clock" unpaid labor common situation
28 consisted of Aggrieved Employees having to wait for stores to open and/or close

1 where they had not clocked in yet or had already clocked out during which time
2 Defendants' employees checked their bag checks, among other things, and were
3 required to wait for managers to open or close the store and/or check their bags during
4 which time Defendant should have compensated Aggrieved Employees but Defendant
5 did not.

6 37.43. Other "off-the-clock" uncompensated labor consisted of situations where
7 Defendant's store managers or their delegates manipulated Aggrieved Employees'
8 time records, thus causing Aggrieved Employees to lose worktime/compensation.

9 38.44. This claim is also premised on Plaintiff's' right to pursue all Labor Code
10 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
11 *USA, Inc.* (2018) 23 Cal.App.5th 745.

12 **Failure to Pay Meal and Rest Break Premiums.**

13 39.45. During all times relevant and continuing to the present, and pursuant to
14 company policy and/or practice and/or direction, Plaintiffs are informed and believe
15 and based thereupon allege that Defendants deprived Plaintiffs and other hourly
16 employees from taking lawful meal and rest periods and did not pay and refused to
17 pay premium pay to workers.

18 40.46. Plaintiffs are informed and believe and based thereupon allege that also
19 because of Defendants' policy, Defendants prevented Aggrieved Employees from
20 taking all their uninterrupted rest breaks to which they had the right to enjoy in an
21 amount to be proven at trial, and Defendants failed to pay them premium pay as
22 required under California law. (See *Augustus v. ABM Security Services* (2016) 2
23 Cal.5th 257.)

24 41.47. This claim is premised on Plaintiff's' right to pursue all Labor Code
25 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
26 *USA, Inc.* (2018) 23 Cal.App.5th 745.

27 **Unreimbursed Work-Related Expense Claims.**

28 48. During all times relevant and continuing to the present, and pursuant to

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1 company policy and/or practice and/or direction, Plaintiffs are informed and believe
2 and based thereupon allege that Defendants failed to reimburse its employees for
3 work related expenses.

4 42.49. In particular, Plaintiffs allege Defendants failed to reimburse the named
5 Plaintiff and Aggrieved Employees for their work-related cell phone and internet data
6 usage, mileage reimbursements for bank drop-offs, supply runs, and similar errands,
7 uniform purchases, face-masks, among other items.

8 43.50. This claim is also premised on Plaintiff's' right to pursue all Labor Code
9 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
10 *USA, Inc.* (2018) 23 Cal.App.5th 745.

11 **Derivative Claims.**

12 44.51. During all times relevant and continuing to the present, and pursuant to
13 company policy and/or practice and/or direction, Plaintiffs are informed and believe
14 and based thereupon allege that Aggrieved Employees did not receive their final
15 paychecks immediately upon involuntary termination or within 72 hours of voluntary
16 separation, were not paid final wages at the location of employment, and said final
17 paychecks did not include all wages due to the employee.

18 45.52. Plaintiffs' derivative claims are premised on Plaintiffs' right to pursue all
19 Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
20 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

21 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

22 46.53. This wage and hour representative action filed pursuant to PAGA, §§
23 2698, 2699 generally consists of the following group:

24 **All current or former employees Defendants employed in**
25 **California from August 21, 2022 to the present.**

26 47.54. All members of the represented group are referred to as the "Aggrieved
27 Employees."

28 48.55. The "Representative Period" means from **August 21, 2022 to the**

1 present.

2 ~~49.56.~~ Plaintiff further alleges, on information and belief, that Aggrieved
3 Employees, did not receive all wages due at the time their employment ended with
4 Defendants.

5 ~~50.57.~~ On information and belief, Defendants current and former employees
6 were subject to wage and hour violations by Defendants, including failing to be paid
7 for all wages due.

8 ~~51.58.~~ California law provides that an employee may file an action against an
9 employer for penalties in connection with violations of the Labor Code and Wage
10 Orders provided the aggrieved employee file an action on behalf of himself or herself
11 and similarly situated current and former employees.

12 ~~52.59.~~ At all material times, Defendants and DOES 1 through 50 were and/or
13 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
14 Employees' employer, within the meaning of California Labor Code § 558, who
15 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
16 Labor Code or any provision regulating hours and days of work in any Order of the
17 Industrial Welfare Commission and, as such, are subject to penalties for each
18 underpaid employee as set for in Labor Code § 558.

19 ~~53.60.~~ As set forth in further detail below, because of the analysis and
20 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent the required
21 correspondence to the California Labor and Workforce Development Agency
22 (LWDA) and to Defendants informing Defendants of Plaintiffs' claims and Plaintiffs'
23 intent to pursue litigation.

24 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 ~~54.61.~~ Pursuant to the PAGA, on **August 21, 2023**, Plaintiffs, *et al.*, via
26 counsel, sent correspondence to the LWDA and Defendants via certified U.S. Mail
27 indicating that Plaintiffs are pursuing the claims alleged in this Complaint.

28 ~~55.62.~~ The statutory waiting period for Plaintiffs has expired for the letter dated

1 above and the LWDA did not serve Plaintiffs with notice of intent to assume
2 jurisdiction over the applicable penalty claims and did not provide notice as set forth
3 in Labor Code § 2699.3(a)(2)(A) within the statutory period.

4 56.63. Therefore, Plaintiffs have exhausted Plaintiffs' administrative remedies
5 to pursue claims and remedies as authorized by the PAGA.

6 57.64. The Causes of Action alleged herein are appropriately suited for a
7 Representative Action under PAGA (Labor Code § 2698, *et seq.*) because:

- 8 a. This action involves allegations of violations of provisions of
- 9 the California Labor Code that provide for a civil penalty to be
- 10 assessed and collected by the LWDA or any departments,
- 11 divisions, commissions, boards, agencies, or employees;
- 12 b. Plaintiffs are "aggrieved employees" because Plaintiffs were
- 13 employed by the alleged violator and had one or more of the
- 14 Labor Code violations alleged on this Complaint committed
- 15 against them; and
- 16 c. Plaintiffs have satisfied the procedural requirements of
- 17 Labor Code § 2699.3, as set forth above.

18 **FIRST CAUSE OF ACTION**

19 **Individual and Representative Claim via the PAGA for**

20 **Failure to Pay State Minimum/Regular Wages**

21 **in Violation of California Labor Code §§ 200, 227.3, 1194,**

22 **1197, 1197.1, 1811, and 1815, and the applicable Wage Order via § 1198**

23 (Against all Defendants)

24 58.65. Plaintiffs re-allege and incorporate by reference the foregoing allegations
25 as though set forth herein.

26 59.66. Pursuant to Labor Code §§ 200, 1194, 1197, 1197.1, 1811, 1815, and
27 1198, it is unlawful for a California employer to suffer or permit an employee to work
28 without paying wages for all hours worked, as required by the applicable Industrial

1 Welfare Commission (IWC) Wage Order.

2 ~~60-67~~. Plaintiffs are informed and believe and based thereupon allege that
3 during all times relevant, Plaintiffs were not paid minimum/regular wages for all
4 hours suffered or permitted to work in violation of California law.

5 ~~61-68~~. Plaintiffs are also informed and believe and based thereupon allege that
6 Defendants failed to pay Aggrieved Employees for all vacation/PTO pay they
7 accrued.

8 ~~62-69~~. During all times relevant, Defendants were required to pay Plaintiffs and
9 other members of the Aggrieved Employees their respective hourly rate for all hours
10 worked and/or minimum wages per state law or applicable local law.

11 ~~63-70~~. During all times relevant, at least one of the IWC Wage Orders applied
12 to Plaintiffs' employment with Defendants.

13 ~~64-71~~. Pursuant to the applicable Wage Order, "hours worked" include the time
14 during which an employee is "suffered or permitted to work, whether or not required
15 to do so."

16 ~~65-72~~. During the proposed Aggrieved Employees Period and based on the
17 misconduct alleged above, Plaintiffs are informed and believe and based thereupon
18 allege that Defendants did not pay Plaintiffs and Aggrieved Employees
19 minimum/regular wages for all hours suffered or permitted to work in violation of
20 state and/or local law, including but not limited to reporting time pay.

21 ~~66-73~~. This claim is also premised on Plaintiffs' right to pursue all Labor Code
22 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
23 *USA, Inc.* (2018) 23 Cal.App.5th 745.

24 ~~67-74~~. Labor Code § 1194 subdivision (a) permits an action to recover wages
25 because of the payment of a wage less than the minimum wage "applicable to the
26 employee" including attorneys' fees, costs, and interest.

27 ~~68-75~~. At all material times, Defendants were and/or are Aggrieved
28 Employees' employers or persons acting on behalf of Aggrieved Employees'

1 employer, within the meaning of California Labor Code §§ 558 and 558.1, who
2 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
3 Labor Code or any provision regulating hours and days of work in any Order of the
4 Industrial Welfare Commission and, as such, are subject to civil penalties for each
5 underpaid employee as set for in Labor Code § 558.

6 ~~69.76.~~ In committing the violations of state law as herein alleged, Plaintiffs are
7 informed and believe based there upon allege that Defendants have knowingly and
8 willfully refused to perform their obligations to compensate Aggrieved Employees for
9 all wages earned and all hours worked.

10 ~~70.77.~~ As a direct result, Aggrieved Employees have suffered and continue to
11 suffer, substantial losses related to the use and enjoyment of such compensation,
12 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
13 compel Defendants to fully perform their obligations under state and/or local law.

14 ~~71.78.~~ Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
15 them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per
16 pay period for the initial violation and two hundred (\$200.00) for each aggrieved
17 employee per pay period for each subsequent violation in which Defendants violated
18 the minimum wage and/or regular wage provisions of the Labor Code, including but
19 not limited to §§ 216, 218, 218.5, 227.3, 558, 1194, 1197, 1197.1, 1811, 1815,
20 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is all in
21 an amount to be shown according to proof at trial.

22 ~~72.79.~~ Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
23 seek to recover from Defendants, and each of them, penalties, attorneys' fees, and
24 costs incurred herein.

SECOND CAUSE OF ACTION

**Representative Claim via the PAGA for
Failure to Pay State Overtime and/or Double-Time Compensation
in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, 510,
1182.12, 1194, 1194.2, 1197, 1197.1,
1811, 1815, and the Applicable IWC Wage Order via § 1198**

(Against all Defendants)

~~73:80.~~ Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

~~74:81.~~ California law requires an employer to pay each employee for the actual hours worked. (Cal. Labor Code § 200.)

~~75:82.~~ During all times relevant, one or more of the IWC Wage Orders applied to Plaintiffs' employment with Defendants.

~~76:83.~~ Pursuant to § 2(K) of the applicable Wage Order(s), including Wage Order 15, "hours worked" include the time during which an employee is "suffered or permitted to work, whether or not required to do so."

~~77:84.~~ Pursuant to Labor Code §§ 510, 1194, 1194.2, and § 3 of the applicable Wage Order(s), for each hour (or fraction thereof) an employee works up to forty (40) hours in a week and eight (8) hours in a day, the employer must pay the employee's regular hourly wage.

~~78:85.~~ For each hour (or fraction thereof) an employee works over forty (40) hours in a week or more than eight (8) hours in a workday the employer must pay the rate of one and a half times the employee's regular hourly wage.

~~79:86.~~ For each hour (or fraction thereof) an employee works more than twelve (12) hours in one day or more than eight (8) hours a day on the seventh consecutive day of work, the employer must compensate the employee at the rate of

1 no less than twice the regular rate of pay for that employee.

2 ~~80-87.~~ During all times relevant, and pursuant to company policy and/or
3 practice and/or direction, Plaintiffs are informed and believe and based thereupon
4 allege that Defendants required Plaintiffs and the Aggrieved Employees to work more
5 than 40 hours per week and/or eight hours in a workday to which they had the right to
6 receive wages and Defendants did not pay Plaintiff and the Aggrieved Employees all
7 overtime compensation to which they should have received at the applicable wage
8 rate.

9 ~~81-88.~~ As alleged herein, Plaintiffs are informed and believe and based
10 thereupon allege that Plaintiffs allege Defendants failed to pay Aggrieved Employees
11 all overtime to which they had a right to receive.

12 ~~82-89.~~ This claim is premised on Plaintiffs' right to pursue all Labor Code
13 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
14 *USA, Inc.* (2018) 23 Cal.App.5th 745.

15 ~~83-90.~~ In committing the violations of state law as herein alleged, Plaintiffs are
16 informed and believe and based thereupon allege that Defendants have knowingly and
17 willfully refused to perform their obligations to compensate Aggrieved Employees for
18 all wages earned and all hours worked.

19 ~~84-91.~~ At all material times, Defendants were and/or are Aggrieved Employees'
20 employers or persons acting on behalf of Aggrieved Employees' employer, within the
21 meaning of California Labor Code §§ 558 and 558.1, who violated or caused to be
22 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
23 regulating hours and days of work in any Order of the Industrial Welfare Commission
24 and, as such, are subject to penalties for each underpaid employee as set for in Labor
25 Code § 558.

26 ~~85-92.~~ In committing the violations of state law as herein alleged, Plaintiffs are
27 informed and believe and based thereupon allege that Defendants have knowingly and
28 willfully refused to perform their obligations to compensate Aggrieved Employees for

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1 all wages earned and all hours worked.

2 ~~86-93~~. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
3 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
4 period for the initial violation and two hundred (\$200.00) for each aggrieved
5 employee per pay period for each subsequent violation in which Defendants violated
6 the overtime provisions of the Labor Code, including but not limited to §§ 510, 558
7 and 1194, the exact amount of the penalties sought is in an amount to be shown
8 according to proof at trial.

9 ~~87-94~~. Pursuant to Labor Code § 2699, *et seq.* Plaintiffs seek to recover from
10 Defendants, and each of them, penalties, attorneys' fees, and costs incurred herein.

11 **THIRD CAUSE OF ACTION**

12 **Individual and Representative Claim via the PAGA for**

13 **Failure to Timely Pay Earned Wages Upon Separation of Employment in**
14 **Violation of California Labor Code §§ 201, 201.3, 202, 203, 204, 204b, 204.2, 210,**
15 **218.5, 218.6, 256, 1198 and the applicable Wage Order**

16 (Against all Defendants)

17 ~~88-95~~. Plaintiffs re-allege and incorporate by reference the foregoing allegations
18 as though set forth herein.

19 ~~89-96~~. Pursuant to Labor Code § 201, "If an employer discharges an employee,
20 the wages earned and unpaid at the time of discharge are due and payable
21 immediately."

22 ~~90-97~~. Pursuant to Labor Code § 202, "If an employee not having a written
23 contract for a definite period quits his or her employment, his or her wages shall
24 become due and payable not later than 72 hours thereafter, unless the employee has
25 given 72 hours previous notice of his or her intention to quit, in which case the
26 employee is entitled to his or her wages at the time of quitting."

27 ~~91-98~~. Labor Code § 203 provides, in pertinent part: "If an employer willfully
28 fails to pay, without abatement or reduction, ... any wages of an employee who is

1 discharged or who quits, the wages of the employee shall continue as a penalty from
2 the due date thereof at the same rate until paid or until an action therefore is
3 commenced; but the wages shall not continue for more than 30 days. ..."

4 92.99. Pursuant to Labor Code § 204, "all wages ... earned by any person in
5 any employment are due and payable twice during each calendar month, on days
6 designated in advance by the employer as the regular paydays."

7 93.100. Pursuant to Labor Code § 204b, "Labor performed by a weekly-
8 paid employee during any calendar week and prior to or on the regular payday shall
9 be paid for not later than the regular payday of the employer for such weekly-paid
10 employee falling during the following calendar week."

11 94.101. Plaintiffs are informed and believe and based thereupon allege that
12 Defendants did not properly pay Plaintiff and Aggrieved Employees pursuant to the
13 requirements of Labor Code, including but not limited to §§ 201, 201.3, 202, 203,
14 204, 204b, 204.2, 210, 218.5, 218.6, 256 and thereby Plaintiffs seek the unpaid
15 wages.

16 95.102. To date, Plaintiffs are informed and believe and based thereupon
17 allege that Defendants have not paid terminated Aggrieved Employees all earned
18 wages as required by law.

19 96.103. At all material times, Defendants and DOES 1 through 50 were
20 and/or are Aggrieved Employees' employers or persons acting on behalf of
21 Aggrieved Employees' employer, within the meaning of California Labor Code §
22 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the
23 California Labor Code or any provision regulating hours and days of work in any
24 Order of the Industrial Welfare Commission and, as such, are subject to penalties for
25 each underpaid employee as set for in Labor Code § 558.

26 97.104. In committing the violations of state law as herein alleged,
27 Defendants have knowingly and willfully refused to perform their obligations to
28 compensate Aggrieved Employees for all wages earned and all hours worked.

1 98,105. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
2 them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per
3 pay period for the initial violation and two hundred (\$200.00) for each aggrieved
4 employee per pay period for each subsequent violation in which Defendants violated
5 the Labor Code, including but not limited to §§ 201, 201.3, 202, 203, 204, 204b,
6 204.2, 210, 218.5, 218.6, 256.

7 99,106. As alleged above, Plaintiffs are informed and believe and based
8 thereupon allege that Defendants have deprived Plaintiffs and Aggrieved Employees
9 of their rightfully earned wages as a direct and proximate result of Defendants' failure
10 and refusal to pay said compensation and for the reasons alleged in this Complaint.

11 100,107. Wherefore, the Plaintiffs request all remedies available to the
12 Aggrieved Employees pursuant to the PAGA.

13 **FOURTH CAUSE OF ACTION**

14 **Representative Claim for Penalties via the PAGA for**
15 **Failure to Comply with the Meal and Rest Break Requirements Under Labor**
16 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order**

17 (Against all Defendants)

18 101,108. Plaintiffs re-allege and incorporate by reference the foregoing
19 allegations as though set forth herein.

20 102,109. Based on the misconduct alleged in this Complaint, Plaintiffs are
21 informed and believe and based thereupon allege that Defendants failed to pay
22 Plaintiff and Aggrieved Employees premium pay for all their missed meal and rest
23 breaks and failed to comply with Labor Code §§ 226.7, 512, and 1198.

24 103,110. Because of Defendants' illegal pay practices, Plaintiffs are
25 informed and believe and based thereupon allege that said Defendants failed to pay
26 Plaintiff and Aggrieved Employees for all meal and rest breaks despite their
27 requirement under California law and, as such, all culpable Defendants are required to
28 pay Plaintiff and Aggrieved Employees for rest break and/or meal break premium

1 wages.

2 ~~104.111.~~ Plaintiffs are informed and believe and based thereupon allege that
3 Defendants also failed to provide Plaintiff, and Aggrieved Employees, legally-
4 compliant meal and rest periods, or compensation in lieu thereof, during their
5 employment by said Defendants.

6 ~~105.112.~~ Cal. Labor Code § 2699, *et seq.* imposes upon all culpable
7 Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee
8 per pay period for the initial violation and two hundred (\$200.00) for each aggrieved
9 employee per pay period for each subsequent violation in which all culpable
10 Defendants violated Cal. Labor Code §§ 226.7 and 512, the exact amount of the
11 applicable penalty is all in an amount to be shown according to proof at trial.

12 ~~106.113.~~ Wherefore, the Plaintiffs request all remedies available to the
13 Aggrieved Employees pursuant to the PAGA.

14 **FIFTH CAUSE OF ACTION**

15 **Individual and Representative Claim for Penalties via the PAGA for**
16 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,**
17 **and the applicable IWC Wage Order**

18 (Against all Defendants)

19 ~~107.114.~~ Plaintiffs re-allege and incorporate by reference the foregoing
20 allegations as though set forth herein.

21 ~~108.115.~~ Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
22 pertinent part, that every employer shall, “semimonthly or at the time of each
23 payment of wages, shall furnish to his or her employees, either as a detachable part of
24 the check, draft, or voucher paying the employee's wages, or separately if wages are
25 paid by personal check or cash, an accurate itemized statement in writing showing (1)
26 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
27 piece-rate units earned and any applicable piece rate if the employee is paid on a
28 piece-rate basis, (4) all deductions, provided that all deductions made on written

1 orders of the employee may be aggregated and shown as one item, (5) net wages
2 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
3 name of the employee and only the last four digits of his or her social security
4 number..., (8) the name and address of the legal entity that is the employer. . ., and
5 (9) all applicable hourly rates in effect during the pay period and the corresponding
6 number of hours worked at each hourly rate by the employee and, beginning July 1,
7 2013, if the employer is a temporary services employer as defined in Section 201.3,
8 the rate of pay and the total hours worked for each temporary services assignment. . .”
9 (Labor Code § 226 subdivision (a).)

10 ~~109.116.~~ Upon information and belief, during all times relevant to this
11 action, Defendants did not provide accurate wage statements throughout the
12 Aggrieved Employees Period and, thus, Plaintiffs assert this claim both as a stand-
13 alone claim and derivative of their unpaid wage claims.

14 ~~110.117.~~ On numerous occasions, an exact amount by which will be proven
15 at trial, Defendants violated various provisions of § 226, including but not limited to
16 subdivisions (a)(1), (a)(2), (a)(4), (a)(5), (a)(8), and (a)(9) by failing to provide
17 Plaintiffs and the Aggrieved Employees accurate itemized statement in writing
18 accurately showing gross wages earned, total hours worked by the employee, net
19 wages earned, rates of pay, among other things.

20 ~~111.118.~~ This claim is also premised on Plaintiffs’ right to pursue all Labor
21 Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
22 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

23 ~~112.119.~~ Cal. Labor Code § 2699, *et seq.* imposes upon all culpable
24 Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee
25 per pay period for the initial violation and two hundred (\$200.00) for each aggrieved
26 employee per pay period for each subsequent violation in which all culpable
27 Defendants violated the applicable Cal. Labor Code provisions alleged in this
28 Complaint, the exact amount of the applicable penalty is all in an amount to be shown

1 according to proof at trial.

2 ~~113.120.~~ Wherefore, Plaintiffs request all remedies available to the
3 Aggrieved Employees pursuant to the PAGA.

4
5 **SIXTH CAUSE OF ACTION**

6 **Individual and Representative Claim for Penalties via the PAGA**
7 **For Failure to Maintain Required Records in Violation of California**

8 **Labor Code §§ 226, 432, 1174, 1198.5, and the**

9 **Applicable Wage Order and/or § 1198**

10 (Against All Defendants)

11 ~~114.121.~~ Plaintiffs re-allege and incorporate by reference the foregoing
12 allegations as though set forth herein.

13 ~~115.122.~~ California Labor Code § 226, subdivision (b), requires employers
14 doing business in the State of California to “afford current and former employees the
15 right to inspect or copy records pertaining to their employment, upon a reasonable
16 request to the employer...” and subdivision (c), requires employers to produce such
17 records within “21 calendar days from the date of the request.”

18 ~~116.123.~~ Plaintiff maintains the records requested fall within the meaning of
19 Labor Code § 226 because, among other reasons, the requested documents are
20 “records pertaining to [his] employment.”

21 ~~117.124.~~ California Labor Code § 432, subdivision (b), requires employers
22 doing business in the State of California to provide current, former employees, and
23 applicants copies of all written instruments they sign upon request.

24 ~~118.125.~~ Plaintiff maintains the records requested fall within the meaning of
25 Labor Code § 432 because some of the records requested constitute written
26 instruments the Plaintiff signed.

27 ~~119.126.~~ California Labor Code § 1198.5, *et seq.*, similarly provides current
28 and former employees the right to inspect their employee personnel records and

1 requires the employer to provide the employee access to such records no later than 30
2 calendar days from the date the employer receives a written request.

3 ~~120,127.~~ Plaintiff maintains the records requested fall within the meaning of
4 Labor Code § 1198.5, *et seq.* because they were part of and/or related to Plaintiff's
5 personnel file within the meaning of Labor Code § 1198.5.

6 ~~121,128.~~ Section 7 of the applicable Wage Order requires every employer to
7 maintain time and payroll records.

8 ~~122,129.~~ Plaintiffs are informed and believe and based thereon alleges that
9 during all times relevant, Defendants failed to comply with § 7 of the applicable IWC
10 Orders and with Labor Code § 1174 by failing to maintain certain records which
11 employers are required to maintain, including but not limited to, all wage records.

12 ~~123,130.~~ This claim is also premised on Plaintiffs' right to pursue all Labor
13 Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
14 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

15 ~~124,131.~~ Cal. Labor Code § 2699, *et seq.* imposes upon all culpable
16 Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee
17 per pay period for the initial violation and two hundred (\$200.00) for each aggrieved
18 employee per pay period for each subsequent violation in which all culpable
19 Defendants violated the applicable Cal. Labor Code provisions alleged in this
20 Complaint, the exact amount of the applicable penalty is all in an amount to be shown
21 according to proof at trial.

22 ~~125,132.~~ For the reasons alleged herein, Plaintiffs seek all available
23 remedies pursuant to the PAGA in an amount to be proven at trial including but not
24 limited to penalties, attorneys' fees, costs, and interest pursuant to law.

25 **SEVENTH CAUSE OF ACTION**

26 **Representative Claim for Penalties via the PAGA Claim for**

27 **Failure to Reimburse Business Expenses**

28 **in Violation of Labor Code §§ 1198 and 2802**

- 22 -

FIRST AMENDED COMPLAINT-Potter, et al. v. Dollar Tree Stores, Inc., et al.

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(Against All Defendants)

~~126.~~133. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

~~127.~~134. Pursuant to California Labor Code § 2802, an employer must indemnify its employees “for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties”

~~128.~~135. On information and belief, Plaintiffs made necessary expenditures and incurred losses as a direct consequence of the discharge of their duties and in obedience to the directions of Defendants.

~~129.~~136. On information and belief, Defendants knew Plaintiffs were incurring the expenses and were responsible for reimbursing ~~unreimbursed expenses~~ Aggrieved Employees for their expenditures and losses as a direct consequence of the discharge of their duties, but failed to do so.

~~130.~~137. This claim is premised on Plaintiffs’ right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

~~131.~~138. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated the applicable Cal. Labor Code provisions alleged in this Complaint, including but not limited to Labor Code §§ 2802 and 1198, the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial, which Plaintiffs seek.

~~132.~~139. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to the PAGA in an amount to be proven at trial including but not limited to penalties, attorneys’ fees, costs, and interest pursuant to law.

EIGHTH CAUSE OF ACTION

Individual and Representative Claim for Penalties via the PAGA

Under California Labor Code §§ 2698, 2699, *et seq.* for

Failure to Provide Seating in Violation of

California Labor Code § 1198 and the Applicable Wage Order

(Against all Defendants)

~~133.~~140. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

~~134.~~141. California Labor Code § 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order.

~~135.~~142. California Labor Code § 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

~~136.~~143. The applicable wage order provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

~~137.~~144. The applicable wage order also provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

1 ~~138,145.~~ The nature of Plaintiffs' job duties permitted them to be seated.
2 ~~139,146.~~ Furthermore, for Aggrieved Employees whose work duties
3 occasionally required standing, Plaintiffs are informed and believe and based
4 thereupon allege that there was not an adequate number of suitable seats in reasonable
5 proximity to the work area to permit employees to use such seats when doing so
6 would not interfere with the performance of their duties.
7 ~~140,147.~~ Plaintiffs allege Defendants violated California Labor Code §
8 1198 and the applicable wage order because Defendants provided inadequate seating
9 arrangements.
10 ~~141,148.~~ Pursuant to the civil penalties provided for in California Labor
11 Code §§ 2699 (f) and (g), Plaintiffs allege Defendants are liable for civil penalties of
12 one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
13 violation and two hundred dollars (\$200) for each aggrieved employee per pay period
14 for each subsequent violation, plus costs and attorneys' fees for violation of California
15 Labor Code § 1198.
16 ~~142,149.~~ For the reasons alleged herein, Plaintiffs seek all available
17 remedies pursuant to the PAGA in an amount to be proven at trial including but not
18 limited to penalties, attorneys' fees, costs, and interest pursuant to law.

19 **NINTH CAUSE OF ACTION**

20 **Individual and Representative Claim for Penalties via the PAGA**
21 **Under California Labor Code §§ 2698, 2699, *et seq.* for**
22 **Individual and Representative Claim for PAGA Penalties and Wage**
23 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**
24 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,**
25 **203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)**
26 **of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,**
27 **230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)**
28 **of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of**

Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2751, 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7 and the Applicable Wage Order

(Against all Defendants)

~~143.~~150. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

~~144.~~151. This claim is premised on Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

~~152.~~ Pursuant to Labor Code § 2699, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

~~145.~~153. As Plaintiffs' Labor Code § 212 claim, Plaintiffs allege Defendants have a pattern and practice of requiring Aggrieved Employees to incur fees to withdraw wages from their employer-issued debit cards in violation of Labor Code § 212.

~~146.~~154. Plaintiffs are informed and believe, and based thereon allege, that

1 because of the acts alleged above and Defendants' violations of the Labor Code
2 provisions alleged herein, Plaintiffs are entitled to penalties under Labor Code §§
3 2698 and 2699.

4 ~~147.155.~~ Plaintiffs are "aggrieved employees" because Plaintiffs were
5 employed by the alleged violator and had one or more of the alleged violations
6 committed against Plaintiffs, and therefore are properly suited to represent the
7 interests of other current and former Represented Employees.

8 ~~148.156.~~ Labor Code § 2699(f) imposes upon Defendants, and each of
9 them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved
10 employee for initial violations, and two hundred dollars (\$200) per pay period, per
11 aggrieved employee for subsequent violations for all Labor Code provisions for
12 which a civil penalty is not specifically provided.

13 ~~149.157.~~ Labor Code § 2699, *et seq.* imposes upon Defendants, and each of
14 them, penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6,
15 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and
16 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3,
17 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
18 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
19 subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551,
20 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970,
21 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the
22 applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290,
23 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
24 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of
25 Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5,
26 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5,
27 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801,
28 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,

1 and 6399.7.

2 ~~150.~~158. Labor Code § 558 establishes a civil penalty as follows: Any
3 employer or other person acting on behalf of an employer who violates, or causes to
4 be violated, a section of this chapter or any provision regulating hours and days of
5 work in any order of the Industrial Welfare Commission (including the “Hours and
6 Days of Work” section of the Wage Order) shall be subject to a civil penalty of (1) for
7 any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
8 period for which the employee was underpaid in addition to an amount sufficient to
9 recover underpaid wages; (2) for each subsequent violation, one hundred dollars
10 (\$100) for each underpaid employee for each pay period for which the employee was
11 underpaid in addition to an amount sufficient to recover underpaid wages; and (3)
12 wages recovered pursuant to this section shall be paid to the affected employee.

13 ~~151.~~159. As to Plaintiff-~~s~~’ sick pay claims, Defendant failed to record ~~the~~
14 ~~named~~ Plaintiff’s accumulated sick pay in violation of Labor Code § 246 until July
15 28, 2023 or alternatively reported the wrong amount because Defendant included
16 hours accumulated when Plaintiff was employed by Family Dollar Tree, Inc., a
17 different employer.

18 ~~152.~~160. Related to the named Plaintiff-~~s~~’ sick pay claim, according to the
19 named Defendant’s Assistant General Counsel, Pamela E. Woodside, the named
20 Defendant carried over the year-to-date hours from the named Plaintiff’s previous
21 employer, Family Dollar, Inc., because they are “sister corporations.” (Pamela E.
22 Woodside email of Aug. 21, 2023.)

23 ~~153.~~161. By the time the named Plaintiff transferred to the named
24 Defendant’s workplace, however, she had worked more than 90 hours and had thus
25 accrued three hours of sick pay per Labor Code § 246(b)(3).

26 162. Based on Defendant’s Assistant General Counsel’s email, the named
27 Defendant failed to apply three hours sick pay the named Plaintiff accrued over to the
28 wage statements that the named Defendant issued to the named Plaintiff in violation

1 of Labor Code § 246(i),

2 ~~154,163.~~ Also related to the named Plaintiffs' sick pay claim is Defendants'
3 failure to pay sick pay at the regular rate of pay because of the failure to include all
4 forms of remuneration including but not limited to nondiscretionary bonus pay, meal
5 break premiums, etc. and the Defendants' overall failure to provide sick leave/PTO.

6 ~~155,164.~~ Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs seek to recover
7 attorneys' fees, costs, civil penalties, and wages on behalf of Plaintiff and other
8 current and former Represented Employees as alleged herein in an amount to be
9 shown according to proof at trial and within the jurisdictional limits of this Court.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 12 1. That Defendants be found liable to the Plaintiffs;
- 13 2. For all remedies available to the Plaintiffs under the applicable provisions of
14 the Labor Code via the PAGA, i.e., Labor Code § 2698, *et seq.* including an award of
15 attorneys' fees, costs, interest, liquidated damages, damages, penalties and waiting
16 time penalties according to proof to the extent permitted by law;
- 17 3. For maximum civil penalties available under the Labor Code and applicable
18 Wage Order as described more particularly in this Complaint, including but not
19 limited to penalties pursuant to Labor Code § 558;
- 20 4. That Aggrieved Employees be awarded reasonable attorneys' fees where
21 available by law, including but not limited to pursuant to Labor Code §§ 2698, *et seq.*,
22 Code of Civil Procedure § 1021.5, and/or other applicable laws; and
- 23 5. For any other relief the Court may deem just, proper, and equitable.

24 Dated: ~~February 22, 2024~~ February 16, 2024
25 Thomas D. Rutledge

Law Office of

26 By: Thomas D. Rutledge
27 /s/Thomas D. Rutledge, Esq.
28 Attorneys for Plaintiffs

Exhibit 5

PAGA Amended PAGA Claim Notice

Private Attorneys General Act (PAGA) – Filing

Amended PAGA Claim Notice

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".

[Search for PAGA Case number](#)

Your Information (Attorney or Employee – Whoever is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Numer

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Amended Notice Detail

Please provide the details of the amendments to the original notice. *

- ☐ Adding additional claims
- ☐ Adding additional corporate defendants
- ☐ Adding additional Individual/Sole proprietor defendants
- ☐ Adding additional plaintiffs
- ☒ Other (please specify)

Please specify "other" *

See attached.

Amended Notice

Amended Notice *

Browse... 3dAmended POTTER PAG...etter-3-28-2024.pdf

Other Attachment (if any) (must be a .pdf)

Browse... No file selected.

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

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