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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

IMRAN KHAN, individually, and on behalf
of other aggrieved employees pursuant to
the California Private Attorneys General
Act;

Plaintiff,

vs.

TD AMERITRADE, INC., a New York
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 37-2023-00049552-CU-OE-CTL

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ.**

Violation of California Labor Code §
2698, et seq. (California Labor Code
Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff IMRAN KHAN (“Plaintiff”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

JURISDICTION AND VENUE

1. This representative action is brought pursuant to the California Labor Code section 2698, et seq. The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, and/or transacts business in the State of California, including the County of San Diego. The majority of the acts and omissions alleged herein relating to Plaintiff and the other aggrieved employees took place in the State of California, including the County of San Diego.

PARTIES

5. Plaintiff IMRAN KHAN is an individual residing in the State of California, County of San Diego.

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6. Defendant TD AMERITRADE, INC. at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of San Diego.

7. At all relevant times, TD AMERITRADE, INC. was the “employer” of Plaintiff within the meaning of all applicable state laws and statutes.

8. At all times herein relevant, TD AMERITRADE, INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

10. TD AMERITRADE, INC. and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

11. Plaintiff further alleges that Defendants including the unknown defendants identified as DOES, directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other aggrieved employees so as to make each of said Defendants employers and employers liable under the statutory provisions set forth herein.

PAGA ALLEGATIONS

12. At all times herein set forth, PAGA was applicable to Plaintiff's employment by Defendants.

13. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

14. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

15. Plaintiff was employed by Defendants and the alleged violations were committed against him during his time of employment and he is, therefore, an aggrieved employee. Plaintiff and the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

16. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

- a. The aggrieved employee shall give written notice by online submission (hereinafter "Employee's Notice") to the Labor & Workforce Development Agency (hereinafter "LWDA") and by U.S. Certified Mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- b. The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the aggrieved employee by certified mail that it does not

1 intend to investigate the alleged violation within sixty (60) calendar
2 days of the postmark date of the Employee's Notice. Upon receipt of
3 the LWDA Notice, or if the LWDA Notice is not provided within
4 sixty-five (65) calendar days of the postmark date of the Employee's
5 Notice, the aggrieved employee may commence a civil action pursuant
6 to California Labor Code section 2699 to recover civil penalties in
7 addition to any other penalties to which the employee may be entitled.

8 17. On September 6, 2023, Plaintiff provided written notice by online submission
9 to the LWDA and by U.S. Certified Mail to Defendant TD AMERITRADE, INC. of the
10 specific provisions of the California Labor Code alleged to have been violated, including the
11 facts and theories to support the alleged violations. Plaintiff has not received an LWDA
12 Notice within sixty-five (65) calendar days of the date of Plaintiff's notice.

13 18. Therefore, Plaintiff has satisfied the administrative prerequisites under
14 California Labor Code section 2699.3(a) to recover civil penalties against Defendants for
15 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a),
16 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

17 **GENERAL ALLEGATIONS**

18 19. At all relevant times set forth herein, Defendants employed Plaintiff and other
19 aggrieved hourly-paid or non-exempt employees who worked for any of the Defendants in
20 the State of California (hereinafter collectively referred to as the "other aggrieved
21 employees").

22 20. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
23 exempt employee from approximately November 2018 to approximately December 2022 in
24 the State of California.

25 21. Defendants hired Plaintiff and the other aggrieved employees, and failed to
26 compensate them for all hours worked, missed meal periods or rest breaks.

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22. Defendants had the authority to hire and terminate Plaintiff and the other aggrieved employees, to set work rules and conditions governing Plaintiff's and the other aggrieved employees' employment, and to supervise their daily employment activities.

23. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's and the other aggrieved employees' employment for them to be joint employers of Plaintiff and the other aggrieved employees.

24. Defendants directly hired and paid wages and benefits to Plaintiff and the other aggrieved employees.

25. Defendants continue to employ hourly-paid or non-exempt employees, within the State of California.

26. Plaintiff and the other aggrieved employees worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

27. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees. This scheme involved, *inter alia*, failing to pay them for all hours worked and for missed (short, late, interrupted, and altogether missed) meal periods and rest breaks in violation of California law.

28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive certain wages for overtime compensation and that they were not receiving wages for overtime compensation.

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide Plaintiff and the other aggrieved employees the required rest and meal periods during the relevant time period as required under the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all applicable penalties.

30. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other

1 aggrieved employee's regular rate of pay when a meal period was missed, and they did not
2 receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other
3 aggrieved employee's regular rate of pay when a meal period was missed.

4 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
6 receive all rest periods or payment of one additional hour of pay at Plaintiff's and the other
7 aggrieved employees' regular rate of pay when a rest period was missed, and they did not
8 receive all rest periods or payment of one additional hour of pay at Plaintiff's and the other
9 aggrieved employees' regular rate of pay when a rest period was missed.

10 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
12 receive at least minimum wages for compensation and that they were not receiving at least
13 minimum wages for all hours worked.

14 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
16 receive all wages owed to them upon discharge or resignation, including overtime and
17 minimum wages and meal and rest period premiums, and they did not, in fact, receive all
18 such wages owed to them at the time of their discharge.

19 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
21 receive all wages owed to them during their employment. Plaintiff and the other aggrieved
22 employees did not receive payment of all wages, including overtime and minimum wages
23 and meal and rest period premiums, within any time permissible under California Labor
24 Code section 204.

25 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
27 receive complete and accurate wage statements in accordance with California law, but, in
28 fact, they did not receive complete and accurate wage statements from Defendants. The

1 deficiencies included, *inter alia*, the failure to include the total number of hours worked by
2 Plaintiff and the other aggrieved employees.

3 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Defendants had to keep complete and accurate payroll
5 records for Plaintiff and the other aggrieved employees in accordance with California law,
6 but, in fact, did not keep complete and accurate payroll records.

7 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
9 reimbursement for necessary business-related expenses and costs.

10 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knew or should have known that they had a duty to compensate Plaintiff and the other
12 aggrieved employees pursuant to California law, and that Defendants had the financial ability
13 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
14 falsely represented to Plaintiff and the other aggrieved employees that they were properly
15 denied wages, all in order to increase Defendants' profits.

16 39. At all material times set forth herein, Defendants failed to pay overtime wages
17 to Plaintiff and the other aggrieved employees. Plaintiff and the other aggrieved employees
18 were required to work more than eight (8) hours per day and/or forty (40) hours per week
19 without overtime compensation.

20 40. At all material times set forth herein, Defendants failed to provide
21 uninterrupted meal and rest periods to Plaintiff and the other aggrieved employees.

22 41. At all material times set forth herein, Defendants failed to pay Plaintiff and the
23 other aggrieved employees at least minimum wages for all hours worked.

24 42. At all material times set forth herein, Defendants failed to pay Plaintiff and the
25 other aggrieved employees all wages owed to them upon discharge or resignation.

26 43. At all material times set forth herein, Defendants failed to pay Plaintiff and the
27 other aggrieved employees' wages within any time permissible under California law,
28 including, *inter alia*, California Labor Code section 204.

Violation of California Labor Code § 2698, et seq.

16 49. Plaintiff incorporates by reference the allegations contained in paragraphs 1
17 through 48, and each and every part thereof with the same force and effect as though fully set
18 forth herein.

50. PAGA expressly establishes that any provision of the California Labor Code which 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 a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

51. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

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1 52. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
2 employees” as defined by California Labor Code section 2699(c) in that they are all current
3 or former employees of Defendants, and one or more of the alleged violations was committed
4 against them.

5 **Failure to Pay Overtime**

6 53. Defendants’ failure to pay legally required overtime wages to Plaintiff and the
7 other aggrieved employees is in violation of the Wage Orders and constitutes a violation of
8 California Labor Code sections 510 and 1198.

9 **Failure to Provide Meal Periods**

10 54. Defendants’ failure to provide legally required meal periods to Plaintiff and
11 the other aggrieved employees is in violation of the Wage Orders and constitutes a violation
12 of California Labor Code sections 226.7 and 512(a).

13 **Failure to Provide Rest Periods**

14 55. Defendants’ failure to provide legally required rest periods to Plaintiff and the
15 other aggrieved employees is in violation of the Wage Orders and constitutes a violation of
16 California Labor Code section 226.7.

17 **Failure to Pay Minimum Wages**

18 56. Defendants’ failure to pay legally required minimum wages to Plaintiff and
19 the other aggrieved employees is in violation of the Wage Orders and constitutes a violation
20 of California Labor Code sections 1194, 1197 and 1197.1.

21 **Failure to Timely Pay Wages Upon Termination**

22 57. Defendants’ failure to timely pay wages to Plaintiff and the other aggrieved
23 employees upon termination in accordance with Labor Code sections 201 and 202 constitutes
24 a violation of California Labor Code sections 201 and 202.

25 **Failure to Timely Pay Wages During Employment**

26 58. Defendants’ failure to timely pay wages to Plaintiff and the other aggrieved
27 employees during employment in accordance with Labor Code section 204 constitutes a
28 violation of California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

59. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes a violation of California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

60. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes a violation of California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

61. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802 constitutes a violation of California Labor Code sections 2800 and 2802.

62. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all penalties pursuant to PAGA against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010 et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the

California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

63. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

64. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of other aggrieved employees pursuant to the Private Attorneys General Act, prays for relief and judgment against Defendants, jointly and severally, in excess of twenty-five thousand dollars (\$25,000):

As to the First Cause of Action

1. For civil penalties pursuant to California Labor Code sections 2699(a), (f), (g) and 558, costs/expenses, and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

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1 2. For such other and further relief as the Court may deem equitable and
2 appropriate.

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4 DATED: November 14, 2023

LAWYERS for JUSTICE, PC

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6 By: Arby Aiwanzi
Arby Aiwanzi
Attorneys for Plaintiff