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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA**

AARON HERNANDEZ, on behalf of the  
State of California and Aggrieved  
Employees,

*Plaintiff,*

vs.

GARDA CL WEST, INC.,

*Defendant.*

Case No. **24CV059354**

**COMPLAINT FOR PENALTIES PURSUANT  
TO SECTIONS 2699(a) AND (f) OF THE  
CALIFORNIA LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Aaron Hernandez (“Plaintiff”), on behalf of the State of California and Aggrieved  
2 Employees, complains and alleges as follows:

### 3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendant Garda CL West, Inc.  
5 (“Garda” or “Defendant”) on behalf of the State of California to collect penalties as a result of  
6 Defendant’s systematic violations of California labor law with respect to Defendant’s non-exempt  
7 hourly workers in the State of California (the “Aggrieved Employees”).

8 2. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers  
9 employed by Defendant in California.<sup>1</sup>

10 3. Plaintiff challenges Defendant’s policies and practices of: (1) failing to compensate  
11 Plaintiff and Aggrieved Employees for all hours worked; (2) failing to pay Plaintiff and Aggrieved  
12 Employees minimum wages; (3) failing to pay Plaintiff and Aggrieved Employees overtime wages;  
13 (4) failing to authorize and permit Plaintiff and Aggrieved Employees to take compliant meal periods  
14 to which they are entitled by law, and failing to pay premium compensation for noncompliant meal  
15 periods; (5) failing to provide Plaintiff and Aggrieved Employees true and accurate itemized wage  
16 statements; and (8) failing to pay Plaintiff and Aggrieved Employees all wages owed upon separation  
17 from employment.

18 4. Plaintiff, on behalf of the State of California, seeks to recover penalties and reasonable  
19 attorneys’ fees for these violations pursuant to Sections 2699(a) and (f) of the California Labor Code  
20 Private Attorneys General Act (“PAGA”).

### 21 **PARTIES**

22 5. Plaintiff and Aggrieved Employees are all current and former non-exempt, hourly  
23 employees of Defendant in the State of California. The Aggrieved Employees work as, among other  
24 positions, hourly paid hourly paid drivers, driver messengers, armed drivers-cash transport, route  
25 production supervisors, CDL armed driver-cash transport, and other hourly non-exempt employees in  
26 California.

27  
28 <sup>1</sup> Although Plaintiff is a former employee, the Aggrieved Employees include current and former  
employees. For ease of discussion, the allegations herein are made in the present tense.

1           6.       Plaintiff Aaron Hernandez is an individual over the age of eighteen, and at all times  
2 relevant to this Complaint was a resident of the State of California.

3           7.       Plaintiff worked for Defendant as an Armed Driver Messenger in Fresno, County of  
4 Fresno, California, from approximately July 29, 2020 until September 20, 2023.

5           8.       Plaintiff is informed, believes, and thereon alleges that Defendant Garda CL West, Inc.,  
6 is a California corporation with its principal place of business located in Coral Springs, Florida. Garda  
7 CL West is registered to do business in the State of California and does business in the State of  
8 California. Garda CL West, Inc. may be served with process by serving its registered agent, Corporate  
9 Creations Network Inc., 5901 W. Century Blvd., Los Angeles, California 90045.

10          9.       Upon information and belief, Garda CL West operates security and cash service offices  
11 across the state of California. Defendant employs armed guards to pick up and deliver cash to  
12 businesses and ATMs in armored trucks. Plaintiff is informed, believes, and thereon alleges that  
13 Defendant Garda employs hundreds of hourly, non-exempt workers similarly situated to Plaintiff in  
14 California.

15          10.      At all material times, Defendant has done business under the laws of California, has  
16 places of business in the State of California, including in this County, and have employed Aggrieved  
17 Employees in this County. Defendant is a “person(s)” as defined in Cal. Lab. Code § 18 and Cal. Bus.  
18 & Prof. Code § 17201. Defendant is also an “employer” as that term is used in the California Labor  
19 Code and the IWC Wage Orders.

20          11.      Defendant employs Plaintiff and Aggrieved Employees because Defendant, directly or  
21 indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of  
22 Plaintiff and Aggrieved Employees.

23                   **SUBJECT MATTER JURISDICTION AND VENUE**

24          12.      Venue is proper in this County pursuant to Cal. Code Civ. Proc. §§ 393 and/or 395.5.  
25 Defendant conducts business and employ Aggrieved Employees in this County, and therefore the  
26 liability and the cause, or some part of the cause, arose in this County.

27          13.      This Court has jurisdictions over Plaintiff’s claims for penalties pursuant to the PAGA.  
28 The Court also has jurisdiction over Defendant because they are a company authorized to do business

1 in the State of California, and because Defendant does in fact do business and employs workers in the  
2 State of California.

3 **FACTUAL ALLEGATIONS**

4 14. Upon information and belief, Garda CL West is a security company with several  
5 divisions. These divisions include cash services and security services offered to third parties. These  
6 services provided include smart safes, vaults, ATM installation and servicing, and armed vehicle  
7 transportation.

8 15. Plaintiff worked for Defendant as an Armed Driver Messenger in Fresno, County of  
9 Fresno, California, from approximately July 29, 2020 until September 20, 2023. Although Plaintiff's  
10 shifts varied in length, Plaintiff usually worked approximately eight (8) hours or more per shift, for  
11 approximately five (5) or more shifts per week. Plaintiff's weekly hours varied, but on average,  
12 Plaintiff worked approximately forty (40) hours per week, or more.

13 16. Defendant pays Aggrieved Employees, including Plaintiff, on an hourly rate basis.  
14 Plaintiff was compensated at an hourly rate of \$20.75.

15 17. Plaintiff is informed, believes, and thereon alleges that Defendant employs and has  
16 employed hundreds of hourly, non-exempt workers similarly situated to Plaintiff in California.

17 18. Plaintiff is informed, believes, and based thereon, alleges that Aggrieved Employees  
18 are employed by Defendant in a similar manner throughout the State of California, including in this  
19 County, and perform work materially similar to Plaintiff.

20 19. Aggrieved Employees perform their jobs under Defendant's supervision using  
21 materials and technology approved and supplied by Defendant.

22 20. Aggrieved Employees are required to follow and abide by Defendant's common work,  
23 time, and pay policies and procedures in the performance of their jobs.

24 21. At the end of each pay period, Aggrieved Employees receive wages from Defendant  
25 that are determined by common systems and methods that Defendant selects and controls.

26 22. Plaintiff is informed, believes, and thereon alleges that Defendant's policies and  
27 practices have at all relevant times been similar for Plaintiff and Aggrieved Employees, regardless of  
28 location in the State of California. Upon information and belief, Aggrieved Employees worked more

1 than eight (8) hours per day and more than forty (40) hours in at least one workweek during the one  
2 year before this Complaint was filed.

3         23. Defendant regularly fails to compensate Plaintiffs and Aggrieved Employees for all  
4 hours worked, including minimum wage and overtime. Defendant routinely requires Plaintiff and  
5 Aggrieved Employees to perform work off-the-clock and without compensation. This includes but is  
6 not limited to Defendant requiring “opening or morning shift” employees to be at their job site by 6:00  
7 a.m. Plaintiff and Aggrieved employees are not allowed to clock in upon arrival; employees are  
8 required to wait for management to arrive at the facility, who then perform a security sweep of the  
9 building, and only then are employees allowed to enter the building and clock in. Plaintiff and  
10 Aggrieved Employees wait at least approximately five (5) minutes and often longer outside the facility  
11 for management to arrive and conduct sweep before being permitted to clock in for the beginning of  
12 each shift. This results in approximately five (5) minutes each morning and about thirty (30) minutes  
13 per week of pre-shift off-the-clock work. Plaintiff and Aggrieved Employees are therefore denied  
14 compensation for all hours worked, including overtime wages, in violation of the California Labor  
15 Code.

16         24. Plaintiff is informed, believes, and thereon alleges that all non-exempt hourly employees  
17 of Defendant are subject to the same or similar unlawful timekeeping and compensation policies and  
18 practices.

19         25. Defendant regularly fails to provide Plaintiff and Aggrieved Employees with timely and  
20 compliant meal periods. Defendant’s policies, practices, and procedures cause Plaintiff and Aggrieved  
21 Employees to routinely skip their meal breaks. Defendant does not allow Plaintiff Aggrieved  
22 Employees to stop vehicle for employees to take an uninterrupted, off-duty meal period. Plaintiff and  
23 Aggrieved Employees are tracked while completing their assigned routes and are prohibited from  
24 stopping. They will get calls from management any time they stop the vehicle telling them to eat their  
25 meal while driving to the next location. As a result, Aggrieved Employees are not provided with duty-  
26 free, uninterrupted, and timely thirty-minute meal periods by the end of the fifth hour of work, nor do  
27 they receive the proper premium payments for non-compliant meal breaks.

28         26. Further, for each day Plaintiff and Aggrieved Employees work longer shifts of ten hours

1 or more, Defendant frequently denies Plaintiff and Aggrieved Employees a duty-free, uninterrupted,  
2 and timely second 30-minute meal break by the end of the tenth hour of work. Yet again, Plaintiff and  
3 Aggrieved Employees do not receive premium payments for these missed second meal breaks.

4 27. Despite these recurring violations, Plaintiff and Aggrieved Employees are not provided  
5 one (1) hour of premium pay for each day they do not receive a compliant meal break.

6 28. Similarly, Defendant regularly fails to make rest periods available to Plaintiff and  
7 Aggrieved Employees. Plaintiff and Aggrieved Employees' schedules regularly prevent them from  
8 taking bona fide rest breaks throughout the day. Defendant will reach out to Plaintiff and Aggrieved  
9 Employees whenever a vehicle stops at a non-scheduled location. Employees must remain on duty  
10 during their 10-minute rest periods by continuing to operate Defendant vehicles.

11 29. Plaintiff and Aggrieved Employees are also not provided with one (1) hour of premium  
12 pay for each day they do not receive a compliant rest break.

13 30. Plaintiff is informed, believes, and thereon alleges that these meal and rest periods  
14 policies and practices have at all relevant times been similar for Plaintiff and Aggrieved Employees  
15 regardless of location and assignment in California.

16 31. Defendant's common course of wage-and-hour abuse results in routinely failing to  
17 maintain true and accurate records of the hours worked by Plaintiff and Aggrieved Employees.

18 32. As a result of the aforementioned violations, Plaintiffs and Aggrieved Employees are  
19 provided with untrue and inaccurate wage statements as such statement do not reflect the correct  
20 amount of gross and net wages earned, including overtime compensations and premium pay for non-  
21 complaint meal and/or rest periods, nor the correct total hours worked by Plaintiffs and Aggrieved  
22 Employees. Defendant's failure to record all hours worked also results in a failure to provide  
23 Aggrieved Employees, including Plaintiff, accurate itemized wage statements as required by  
24 California law. The wage statements Defendant provides are not accurate because they do not reflect  
25 payment for all hours worked, including minimum wage and overtime compensation. Further, the  
26 wage statements are inaccurate because they do not include premium pay for non-compliant meal  
27 and/or rest periods in violation of California law.

28 33. Further, Defendant does not provide Plaintiff and Aggrieved Employees who are

1 former workers of Defendant with full payment of all wages owed upon separation from employment.  
2 At the time their employment ends, Aggrieved Employees are owed wages for all time worked,  
3 including overtime and premium pay for non-compliant meal periods and rest breaks, whether their  
4 termination was voluntary or involuntary; yet Defendant has failed to provide Aggrieved Employees  
5 with such payments within the required time period. As a result, and pursuant to the California Labor  
6 Code, Defendant is subject to waiting time penalties.

7 34. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct  
8 has been widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendant's  
9 operations in the State of California.

### 10 **FIRST CAUSE OF ACTION**

#### 11 **Penalties Pursuant to Cal. Lab. Code § 2699(a)**

#### 12 **(On Behalf of the State of California and Aggrieved Employees)**

13 35. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth  
14 herein.

15 36. Cal. Lab. Code § 2699(a) provides:

16 Notwithstanding any other provision of law, any provision of this code that provides  
17 for a civil penalty to be assessed and collected by the Labor and Workforce  
18 Development Agency or any of its departments, divisions, commissions, boards,  
19 agencies, or employees, for a violation of this code, may, as an alternative, be recovered  
20 through a civil action brought by an aggrieved employee on behalf of himself or herself  
21 and to other current or former employees.

22 37. Cal. Lab. Code §§ 201 and 202 require employers to immediately pay wages earned  
23 and unpaid to an employee that is discharged, and to pay an employee who quits within 72 hours after  
24 he or she quits, at the latest.

25 38. Cal. Lab. Code § 203 provides, in relevant part:

26 If an employer willfully fails to pay, without abatement or reduction, in accordance  
27 with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged  
28 or who quits, the wages of the employees shall continue as a penalty from the due date  
thereof at the same rate paid or until an action therefor is commenced; but the wages  
shall not continue for more than 30 days.

39. Cal. Lab. Code § 256 provides: "The Labor Commissioner shall impose a civil penalty  
in an amount not exceeding 30 days' pay as waiting time under the terms of Section 203."

1           40.     Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by  
2 Defendant, as alleged above, to timely pay all wages owed to Plaintiff and the Aggrieved Employees  
3 in compliance with Cal. Lab. Code §§ 201-202 and in the amounts established by Cal. Lab. Code §§  
4 203 and 256.

5           41.     Cal. Lab. Code § 226(a) provides:  
6           Every employer shall, semimonthly or at the time of each payment of wages, furnish  
7 each of his or her employees, either as a detachable part of the check, draft, or voucher  
8 paying the employee's wages, or separately when wages are paid by personal check or  
9 cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)  
10 total hours worked by the employee, except for any employee whose compensation is  
11 solely based on a salary and who is exempt from payment of overtime under  
12 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare  
13 Commission, (3) the number of piece-rate units earned and any applicable piece-rate  
14 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all  
15 deductions made on written orders of the employee may be aggregated and shown as  
16 one item, (5) net wages earned, (6) the inclusive dates of the period for which the  
17 employee is paid, (7) the name of the employee and his or her social security number,  
18 (8) the name and address of the legal entity that is the employer, and (9) all applicable  
19 hourly rates in effect during the pay period and the corresponding number of hours  
20 worked at each hourly rate by the employee.

21           42.     Cal. Lab. Code § 226(e)(1) provides, in relevant part:  
22           An employee suffering injury as a result of a knowing and intentional failure by an  
23 employer to comply with subdivision (a) is entitled to recover the greater of all actual  
24 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and  
25 one hundred dollars (\$100) per employee for each violation in a subsequent pay period,  
26 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to  
27 an award of costs and reasonable attorney's fees.

28           43.     Cal. Lab. Code § 226.3 provides:  
29           Any employer who violates subdivision (a) of Section 226 shall be subject to a civil  
30 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation  
31 in an initial citation and one thousand dollars (\$1,000) per employee for each violation  
32 in a subsequent citation, for which the employer fails to provide the employee a wage  
33 deduction statement or fails to keep the records required in subdivision (a) of Section  
34 226. The civil penalties provided for in this section are in addition to any other penalty  
35 provided by law.

36           44.     Plaintiff also seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure  
37 by Defendant, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized  
38 wage statement in compliance with Cal. Lab. Code § 226(a) in the amounts established by Cal. Lab.  
39 Code § 226.3. In addition, Plaintiff seeks penalties in the amount established by Cal. Lab. Code §  
40 226(e)(1).

45. Cal. Lab. Code § 226.8(a)(1) prohibits any person or employer to willfully misclassify an individual as an independent contractor.

46. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on October 6, 2023, Plaintiff provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. On October 6, 2023, Plaintiff mailed Defendant a copy of such notice via certified mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

47. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and himself as set forth in Cal. Lab. Code § 2699.

48. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

49. Wherefore, Plaintiff requests relief as hereinafter provided.

## SECOND CAUSE OF ACTION

### Penalties Pursuant to Cal. Lab. Code § 2699(f)

**(On Behalf of the State of California and Aggrieved Employees)**

50. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

51. Cal. Lab. Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one 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.

52. Cal. Lab. Code § 200 defines wages as “all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or method of calculation.”

53. Cal. Lab. Code § 204(a) provides that “[a]ll wages ... earned by any person in any

1 employment are due and payable twice during each calendar month....”

2 54. Cal. Lab. Code § 221 provides that “[i]t shall be unlawful for any employee to collect  
3 or receive from an employee any part of wages therefore paid by said employer to said employee.”

4 55. Cal. Lab. Code § 225.5 provides in relevant part:

5 In addition to, and entirely independent and apart from, any other penalty provided in  
6 this article, every person who unlawfully withholds wages due any employee in  
7 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty as  
8 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay  
each employee. (b) For each subsequent violation, or any willful or intentional  
violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25  
percent of the amount unlawfully withheld.

9 56. IWC Wage Order 4-2001(2)(K) defines hours worked as “the time during which an  
10 employee is subject to the control of an employer and includes all the time the employee is suffered  
11 or permitted to work, whether or not required to do so.”

12 57. Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under  
13 conditions that violate the Wage Orders.

14 58. Cal. Lab. Code § 510 provides, in relevant part:

15 Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one  
16 workday and any work in excess of 40 hours in any one workweek and the first eight  
17 hours worked on the seventh day of work in any one workweek shall be compensated  
18 at the rate of no less than one and one-half times the regular rate of pay for an employee.  
19 Any work in excess of 12 hours in one day shall be compensated at the rate of no less  
20 than twice the regular rate of pay for an employee. In addition, any work in excess of  
eight hours on any seventh day of a workweek shall be compensated at the rate of no  
less than twice the regular rate of pay of an employee. Nothing in this section requires  
an employer to combine more than one rate of overtime compensation in order to  
calculate the amount to be paid to an employee for any hour of overtime work.

21 59. Cal. Lab. Code § 1197 provides:

22 The minimum wage for employees fixed by the commission or by any applicable state  
23 or local law, is the minimum wage to be paid to employees, and the payment of a lower  
24 wage than the minimum so fixed is unlawful. This section does not change the  
applicability of local minimum wage laws to any entity.

25 60. Cal. Lab. Code § 1194 provides, in relevant part:

26 Notwithstanding any agreement to work for a lesser wage, any employee receiving less  
27 than the legal minimum wage or the legal overtime compensation applicable to the  
28 employee is entitled to recover in a civil action the unpaid balance of the full amount  
of this minimum wage or overtime compensation, including interest thereon,  
reasonable attorney’s fees, and costs of suit.

1           61.     Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 4-2001 require Defendants to  
2 authorize, permit, and/or make available timely and compliant meal and rest periods to its employees.  
3 Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 4-2001 prohibit employers from employing  
4 an employee for more than five hours without a meal period of not less than thirty minutes, and from  
5 employing an employee more than ten hours per day without providing the employee with a second  
6 meal period of not less than thirty minutes. Unless the employee is relieved of all duty during the  
7 thirty-minute meal period and ten-minute rest period, the employee is considered “on duty” and the  
8 meal period is counted as time worked under the applicable wage orders.

9           62.     Defendant’s policies and practices result in payment of wage and overtime violations,  
10 and meal and rest periods violations.

11           63.     To the extent than any violation alleged herein does not carry penalties under Cal. Lab.  
12 Code § 2699(a), Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(f) for each pay period  
13 in which Plaintiff and an Aggrieved Employee was aggrieved, in the amounts established by Cal. Lab.  
14 Code § 2699(f). Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and  
15 Aggrieved Employees for violations of Cal. Lab. Code provisions including, but not limited to, Cal.  
16 Lab. Code §§ 204, 221, 225.5, 226.7, 510, 512, 1194, 1197, 1198, IWC Wage Order 4-2001, and any  
17 other violation alleged herein which does not carry penalties under Cal. Lab. Code § 2699(a).

18           64.     Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on October 6, 2023, Plaintiff  
19 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to  
20 file this claim. On October 6, 2023, Plaintiff mailed Defendant a copy of such notice via certified mail.  
21 At least sixty-five calendar days have passed without response from the LWDA. Plaintiff satisfied the  
22 administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code §  
23 2699.3(a).

24           65.     Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
25 Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

26           66.     Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for  
27 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees  
28 and costs as set forth below.

67. Wherefore, Plaintiff requests relief as hereinafter provided.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for relief as follows:

1. For the Court to declare, adjudge, and decree that Defendant has violated the Cal. Lab. Code as alleged herein;
2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided under the PAGA;
3. For an award of reasonable attorneys' fees as provided by the Cal. Lab. Code § 2699(g)(1); Cal. Code Civ. Proc. § 1021.5; and/or any other applicable law;
4. For all costs of suit; and
5. For such other and further relief as this Court deems just and proper.

Respectfully Submitted,

Date: January 10, 2024



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*Attorneys for Plaintiff, on behalf of the State of  
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Respectfully Submitted,

Date: January 10, 2024

Cathy Attwell

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