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Attorneys for Plaintiff LUIS YORBA,
on behalf of himself and current and former aggrieved employees

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

LUIS YORBA, on behalf of himself and current
and former aggrieved employees

Plaintiff,

vs.

GOVERNMENT EMPLOYEES INSURANCE
COMPANY; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 37-2024-00008220-CU-OE-CTL

PAGA ACTION

**PLAINTIFF LUIS YORBA'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff LUIS YORBA ("Plaintiff"), who alleges and complains against
Defendants GOVERNMENT EMPLOYEES INSURANCE COMPANY; and DOES 1 to 100,
inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698,
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally
2 required and legally compliant meal and rest periods, failure to pay wages for accrued paid sick
3 time at the regular rate of pay, failure to timely pay earned wages during employment, failure to
4 provide complete and accurate wage statements, failure to timely pay all unpaid wages following
5 separation of employment. Plaintiff seeks on a representative basis, following notice to the Labor
6 and Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor
7 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
8 others aggrieved.

9 **II. JURISDICTION AND VENUE**

10 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
11 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
12 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
13 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
14 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
15 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
16 aggrieved California-based hourly non-exempt employees occurred in locations throughout
17 California, including but not limited to San Diego County at 1411 Danielson St., Poway, CA
18 92064.

19 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
20 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
21 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
22 tolled from April 6, 2020, until October 1, 2020.

23 **III. PARTIES**

24 4. Plaintiff brings this action as a representative of the Labor and Workforce
25 Development Agency on behalf of himself and all others similarly situated. The aggrieved
26 employee groups which Plaintiff seeks to represent are composed of and defined as follows:

27 5. **Remote Employee PAGA Group:** any and all other current and former employees
28 that have worked remotely subject to violations of the Labor Code. The named Plaintiff and the

1 persons on whose behalf this action is filed include current, former and/or future employees of
2 Defendants who work, worked, or will work for Defendants as direct employees as well as
3 temporary employees employed through temp agencies as hourly non-exempt employees in
4 California.

5 **6. Remote Claims Administrator PAGA Group:** all non-exempt employees who,
6 worked, or will work for Defendants as direct employees as well as temporary employees
7 employed through temp agencies as hourly non-exempt employees in California as remote claims
8 administrators.

9 7. Plaintiff reserves the right to further establish PAGA groups as appropriate.

10 8. At all times mentioned herein, the currently named Plaintiff is and was domiciled
11 and a resident and citizen of California and was employed by Defendants in an hourly position at
12 Defendants' location in San Diego from approximately October 10, 2022, and continuing as of the
13 filing of this Complaint, Defendants employ Plaintiff as an aggrieved California-based hourly non-
14 exempt employees.

15 9. Plaintiff is informed and believes and thereon alleges that Defendant
16 GOVERNMENT EMPLOYEES INSURANCE COMPANY is authorized to do business within
17 the State of California and is doing business in the State of California and/or that Defendants
18 DOES 1-50 are, and at all times relevant hereto were persons acting on behalf of Defendant
19 GOVERNMENT EMPLOYEES INSURANCE COMPANY in the establishment of, or
20 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
21 GOVERNMENT EMPLOYEES INSURANCE COMPANY operates in San Diego County and
22 employed Plaintiff and aggrieved employees in San Diego County, including but not limited to, at
23 1411 Danielson St., Poway, CA 92064.

24 10. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
25 through 50 are corporations, or are other business entities or organizations of a nature unknown to
26 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
27 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
28 working conditions of employment of Plaintiff and aggrieved employees.

11. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued individually and in his or her capacity as an agent, shareholder, owner, representative, manager, supervisor, independent contractor and/or employee of each defendant who violated or caused to be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of the Industrial Welfare Commission's wage orders regulating hours and days of work.

12. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff sues said defendants by said fictitious names, and will amend this complaint when the true names and capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named defendants is in some manner responsible for the events and allegations set forth in this complaint.

13. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION
CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF
2004, LABOR CODE SECTIONS 2698, ET SEQ.
(Against all Defendants by Plaintiff)

14. Plaintiff incorporates all paragraphs above as though fully set forth herein.

15. During Plaintiff's employment and continuing through the present, Plaintiff alleges Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 1194, 1197 and the applicable Wage Orders.

16. Specifically, Defendants have committed the following violations of California Labor Code:

17. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked,"

1 which includes all time that an employee is under control of the employer and all time the
2 employee is suffered and permitted to work. This includes the time an employee spends, either
3 directly or indirectly, performing services which inure to the benefit of the employer.

4 18. Labor Code sections 1194 and 1197 require an employer to compensate employees
5 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
6 Wage Orders.

7 19. In this case, Plaintiff and other current and former aggrieved California-based
8 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
9 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
10 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
11 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
12 not limited to,

13 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
14 non-exempt employees who worked remotely in CA to set up their employer-provided computer
15 system off the clock. The initial set up required, a HDMI adapter, a laptop, and a special VPN
16 mechanism. You had to plug in all three devices, log into 3 different systems, and then were able
17 to start work. This initial process of setting up a Plaintiff’s and other current and former
18 aggrieved California-based hourly non-exempt employees’ workstation took about 1 hour to
19 complete.

20 (b) Each shift worked remotely, Plaintiff and other current and former aggrieved
21 California-based hourly non-exempt employees who worked remotely in CA were required to:

- 22 i. Boot up their computers;
- 23 ii. Wait for their computers to load;
- 24 iii. Once loaded, enter credentials to log into Defendants’ computer system;
- 25 iv. Request and wait to receive a 2-factor authentication code from the
26 Defendants’ computer system on their personal cell phone using an
27 application Defendants required them to download;
- 28 v. Once received, use biometric security features on their phones to access the

code;

vi. Use the code to log into Defendants' computer system;

vii. Once in Defendants' computer system, they had to launch the timekeeping application and wait for it to load; and

(c) Log into the timekeeping application then clock in for the start of their shift.

Plaintiff estimates that he and other current and former aggrieved California-based hourly non-exempt employees spent five (5) to fifteen (15) minutes on the aforementioned boot-up process every shift worked remotely.

(d) "rounding" down or "shaving" Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' total daily hours at the time of their clock-in and clock-out to the nearest quarter of an hour, to the benefit of Defendants.

20. Therefore, Defendants suffered, permitted, and required Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to be subject to Defendants' control without paying wages for that time. This resulted in Plaintiff and other current and former aggrieved California-based hourly non-exempt employees working time for which they were not compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable Wage Order.

21. **Failure to pay wages for overtime hours worked at the overtime rate of pay:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services that inure to the benefit of the employer.'

22. Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve

(12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) 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.

Labor Code section 510.

23. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to,

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees who worked remotely in CA to set up their employer-provided computer system off the clock. The initial set up required, a HDMI adapter, a laptop, and a special VPN mechanism. You had to plug in all three devices, log into 3 different systems, and then were able to start work. This initial process of setting up a Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' workstation took about 1 hour to complete.

(b) Each shift worked remotely, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees who worked remotely in CA were required to:

- i. Boot up their computers;
- ii. Wait for their computers to load;
- iii. Once loaded, enter credentials to log into Defendants' computer system;
- iv. Request and wait to receive a 2-factor authentication code from the Defendants' computer system on their personal cell phone using an application Defendants required them to download;
- v. Once received, use biometric security features on their phones to access the code;
- vi. Use the code to log into Defendants' computer system;
- vii. Once in Defendants' computer system, they had to launch the timekeeping application and wait for it to load; and

(c) Log into the timekeeping application then clock in for the start of their shift. Plaintiff estimates that he and other current and former aggrieved California-based hourly non-exempt employees spent five (5) to fifteen (15) minutes on the aforementioned boot-up process

every shift worked remotely.

(d) “rounding” down or “shaving” Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’ total daily hours at the time of their clock-in and clock-out to the nearest quarter of an hour, to the benefit of Defendants.

24. Overtime is based upon an employee’s regular rate of pay. “The regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee.” *See* Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

25. In this case, Plaintiff alleges that when he and other current and former aggrieved California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay due to Defendants’ failure to include all remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration such as shift differential pay, for example, when calculating Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’ regular rate of pay for the purpose of paying overtime.

26. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code sections 510 and 1194 and the applicable Wage Order.

27. **Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other current and former aggrieved California-based hourly non-exempt employees regularly worked shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

28. California law requires an employer to authorize or permit an employee an

uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 4 at §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is only permitted when: (1) the nature of the work prevents an employee from being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

29. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 4 at §11.

30. In this case, Defendants failed to authorize or permit legally required and compliant meal periods to Plaintiff and other current and former aggrieved California-based hourly non-exempt employees due to Defendants' policies, practices, and/or procedures.

31. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or procedure of failing to compensate Plaintiff and other current and former aggrieved California-based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt employees did not receive legally required and compliant meal periods, in violation of Labor Code section 226.7.

32. Finally, on occasions when Defendants paid Plaintiff and other current and former aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed, short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' regular rate of compensation. Specifically, Defendants maintained

1 a policy, practice, and/or procedure of failing to include all remuneration including, but not limited
2 to, shift differential pay when calculating Plaintiff's and other current and former aggrieved
3 California-based hourly non-exempt employees' regular rate of pay for the purpose of paying meal
4 period premium wages.

5 33. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
6 and other current and former aggrieved California-based hourly non-exempt employees not
7 receiving wages to compensate them for workdays during which Defendants did not provide them
8 with meal periods in compliance with California law.

9 34. **Failure to pay wages to hourly non-exempt employees for workdays that**
10 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
11 current and former aggrieved California-based hourly non-exempt employees regularly worked
12 shifts of more than three-and-a-half (3.5) hours.

13 35. California law requires every employer to authorize and permit an employee a rest
14 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
15 Code section 226.7; Wage Order 4 at §12. Under California law, "[e]mployees are entitled to 10
16 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
17 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
18 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
19 section 226.7; Wage Order 4 at §12. Rest periods, insofar as practicable, shall be in the middle of
20 each work period. Wage Order 4 at §12. Additionally, the rest period requirement "obligates
21 employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM*
22 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
23 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

24 36. If the employer fails to authorize or permit a required rest period, the employer
25 must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday
26 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
27 Wage Order 4 at § 12.

28 37. In this case, Defendants failed to authorize or permit all legally required and

1 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
2 non-exempt employees due to Defendants' policies, practices, and/or procedures.

3 38. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
4 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
5 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
6 workday they did not receive legally required and compliant rest periods, in violation of Labor
7 Code section 226.7.

8 39. Finally, on occasions when Defendants did pay Plaintiff and other current and
9 former aggrieved California-based hourly non-exempt employees a "premium" wage for late,
10 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
11 one (1) additional hour of pay at Plaintiff's and other current and former aggrieved California-
12 based hourly non-exempt employees' regular rate of compensation. Specifically, Defendants
13 maintained a policy, practice, and/or procedure of failing to include all remuneration such as shift
14 differential pay, for example, when calculating Plaintiff's other current and former aggrieved
15 California-based hourly non-exempt employees' regular rate of pay for the purpose of paying rest
16 period premiums.

17 40. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
18 and other current and former aggrieved California-based hourly non-exempt employees not
19 receiving wages to compensate them for workdays in which Defendants did not provide them with
20 rest periods in compliance with California law.

21 41. **Failure to pay wages for accrued paid sick days at the regular rate of pay:**
22 Defendants had a policy and/or procedure where Plaintiff and other current and former aggrieved
23 California-based hourly non-exempt employees accrued paid sick time.

24 42. Labor Code section 246, subdivision (a), states in relevant part "[a]n employee
25 who...works in California for the same employer for 30 or more days within a year from the
26 commencement of employment is entitled to paid sick days." Additionally, an employee accrues
27 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
28 beginning at the commencement of employment. Labor Code section 246(b).

1 43. Here, Plaintiff and other current and former aggrieved California-based hourly non-
2 exempt employees were employed by Defendants for 30 or more days and were entitled to paid
3 sick days. Also, Plaintiff and other current and former aggrieved California-based hourly non-
4 exempt employees began accruing paid sick days since the beginning of each of their respective
5 employment with Defendants.

6 44. Labor Code section 246, subdivision (l), provides that an employer shall calculate
7 the paid sick time for non-exempt employees in the same manner as the regular rate of pay for the
8 workweek in which the employee elected to use paid sick time. “The regular rate at which an
9 employee is employed shall be deemed to include all remuneration for employment paid to, or on
10 behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement Policies
11 and Interpretations Manual, Section 49.1.2.

12 45. In this case, Plaintiff alleges that when he and other current and former aggrieved
13 California-based hourly non-exempt employees elected to use paid sick time, Defendants failed to
14 pay them sick time wages at the proper sick time rate of pay due to Defendants’ failure to include
15 all remuneration when calculating the sick time rate of pay. Specifically, Defendants maintained a
16 policy, practice, and/or procedure of failing to include all remuneration including but not limited
17 to shift differential pay, for example, when calculating Plaintiff’s and other current and former
18 aggrieved California-based hourly non-exempt employees’ regular rate of pay for the purpose of
19 paying sick time.

20 46. Defendants’ foregoing policy, practice, and/or procedure resulted in Defendants
21 failing to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
22 employees at their sick time regular rate of pay for all sick time accrued, in violation of Labor
23 Code section 246.

24 47. **Failure to timely pay earned wages during employment:** In California, wages
25 must be paid at least twice during each calendar month on days designated in advance by the
26 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
27 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
28 16th and the 26th day of that month and wages earned between the 16th and the last day,

1 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
2 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
3 paid within seven (7) calendar days following the close of the payroll period in which wages were
4 earned. Labor Code section 204(d).

5 48. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
6 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
7 exempt employees' earned wages (including minimum wages, overtime wages, meal period
8 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
9 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
10 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
11 their earned wages within the applicable time frames outlined in Labor Code section 204.

12 49. **Failure to provide complete and accurate wage statements:** Labor Code section
13 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
14 employee his or her wages, the employer must "furnish each of his or her employees ... an
15 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
16 employee, except for any employee whose compensation is solely based on a salary and who is
17 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
18 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
19 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
20 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
21 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
22 name of the employee and his or her social security number, (8) the name and address of the legal
23 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
24 the corresponding number of hours worked at each hourly rate by the employee."

25 50. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
26 and other current and former aggrieved California-based hourly non-exempt employees all wages
27 earned (including minimum wages, overtime wages, meal period premium wages and/or rest
28 period premium wages), rendered Plaintiff's and other current and former aggrieved California-

1 based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code
2 section 226.

3 **51. Failure to pay employees all wages due at time of termination/resignation:** An
4 employer is required to pay all unpaid wages timely after an employee's employment ends. The
5 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
6 hours of resignation (Labor Code section 202).

7 **52.** As a derivative of Plaintiff's allegations above, because Defendants failed to pay
8 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
9 all their earned wages (including minimum wages, overtime wages, meal period premium wages
10 and/or rest period premium wages), Defendants failed to pay those employees timely after each
11 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

12 **53.** Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
13 employee, on behalf of himself or herself and other current or former employees, to bring a civil
14 action to recover civil penalties against all Defendants pursuant to the procedures specified in
15 Labor Code section 2699.3.

16 **54.** Plaintiff has complied with the procedures for bringing suit specified in Labor
17 Code section 2699.3. On November 27, 2023, Plaintiff filed a PAGA Claim Notice with the
18 LWDA and provided notice to Defendants by certified mail which provided notice of the specific
19 provisions of the Labor Code alleged to have been violated, including the facts and theories to
20 support the violations alleged.

21 **55.** Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
22 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
23 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
24 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
25 to investigate Plaintiff's claims.

26 **56.** Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
27 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 246,
28 510, 512, 1194, and 1197, During Plaintiff's employment and continuing through the present,

1 preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the
2 following amounts:

3 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, and 512;
4 one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
5 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
6 violation [penalty amounts established by Labor Code section 2699(f)(2)].

7 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
8 for each employee for each pay period for the initial violation, and for each subsequent violation,
9 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
10 established by Labor Code section 226.3].

11 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
12 employee for each pay period for the initial violation, and for each subsequent violation, one
13 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
14 established by Labor Code section 558].

15 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
16 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
17 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
18 period [penalty amounts established by Labor Code section 1197.1].

19 57. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
20 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER**
23 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

24 **ON THE FIRST CAUSE OF ACTION:**

25 1. That Defendants be found to have violated the provisions of the Labor Code and
26 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

27 2. For any and all legally applicable penalties during the relevant statute of limitations
28 subject to any permissible tolling, including but not limited to those recoverable under the

1 California Labor Code, including but not limited to section 2699(f);

2 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
3 under California Labor Code section 2699(g); and

4 4. For such and other further relief, in law and/or equity, as the Court deems just or
5 appropriate

6
7
8
9 Dated: February 21, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

10
11 By: Colby A. Meagle-Dunn

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19 aggrieved employees
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