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Assigned for All Purposes
Judge William Claster
Dept. CX101

Attorneys for Plaintiff, on behalf of the State of California as the Real Party in Interest

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

CYNTHIA IZQUIERDO, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

MULTI-COLOR CORPORATION, an Ohio
Corporation; and WS PACKAGING GROUP,
INC., a California Corporation; and DOES 1
through 20, inclusive;

Defendants.

Case No.: 30-2024-01403003-CU-OE-CXC

**REPRESENTATIVE ENFORCEMENT
ACTION COMPLAINT [Private
Attorneys General Act of 2004 (“PAGA”),
Lab. Code § 2698, *et seq.*]**

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Timely Pay Final Wages;
- (6) Failure to Provide Accurate Itemized Wage Statements

Plaintiff Cynthia Izquierdo (“Plaintiff”) brings this Private Attorneys General Act
 (“PAGA”) Representative Action Complaint (“Complaint”), on behalf of the State of California
 as the real party in interest,¹ against Defendants as follows.

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¹ Because a PAGA action is aimed at deterring and punishing violations of the Labor Code, the
 State of California “is always the real party in interest in the suit.” *Iskanian v. CLS Transp. of
 Los Angeles, LLC* (2014) 59 Cal.4th 348, 360; *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175,
 185 (all PAGA claims “are brought on the state’s behalf”).

1 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

2 1. Plaintiff brings this action against her former employer(s), MULTI-COLOR
3 CORPORATION, WS PACKAGING GROUP, INC., and DOES 1 through 20, inclusive,
4 (collectively, “Defendants”) on behalf of the State of California, seeking civil penalties under
5 PAGA for Labor Code violations committed against all current and former nonexempt
6 employees employed by Defendants in California within the last one year and 65-days prior to
7 the filing of this action (hereinafter, the “Aggrieved Employees”). Such violations include, but
8 are not limited to, Defendants’ failure to pay all wages owed, including minimum, regular, and
9 overtime wages, failure to provide meal periods, failure to provide rest breaks, failure to pay
10 vested vacation, failure to timely pay wages each period and upon separation of employment,
11 and failure to provide accurate itemized wage statements.

12 2. Plaintiff was employed by Defendants from approximately January 2023 through
13 October 2023.

14 3. Plaintiff alleges on information and belief that the Aggrieved Employees were
15 subjected to the same policies, working conditions, and corresponding wage and hour violations
16 to which Plaintiff was subjected during employment.

17 4. Plaintiff and the Aggrieved Employees were not provided all minimum wages due
18 to Defendants’ failure to accurately record and compensate for all hours worked. As one such
19 example, Defendants utilized a rounding policy and practice that routinely undercompensated
20 Plaintiff and the Aggrieved Employees and resulted in a net benefit to Defendants and a net loss
21 for Plaintiff and the Aggrieved Employees. In other words, Defendants’ rounding policy is not
22 neutral and results in systematic undercompensation to the Aggrieved Employees for minimum
23 and overtime wages. As one such example, at all relevant times, Defendants also failed to
24 properly pay the actual number of hours worked at the correct rates of pay, failed to pay for all
25 on-duty breaks, and required off-the-clock work, resulting in an underpayment of wages to
26 Plaintiff and Aggrieved Employees. Because this time was spent under Defendants’ control
27 without compensation, this violates California law and led to minimum and overtime wage
28 violations. See *Troester v. Starbucks Corporation* (2018) 5 Cal.5th 829 (California law “do[es]

1 not allow employers to require employees to routinely work for minutes off the clock without
2 compensation”).

3 5. Plaintiff and the Aggrieved Employees were also denied 30-minute off-duty meal
4 periods, as mandated by California law. As a result of Defendants’ policies and practices, the
5 Aggrieved Employees were subjected to meal period violations when they were: (1) unable to
6 take a meal period due to workload, (2) forced to take an on-duty meal period while under the
7 control of the Company, (3) forced to take a shortened meal period, (4) forced to take a meal
8 period after the 5th hour of work, and (5) not provided mandated second meal periods for shifts
9 in excess of 10 hours.

10 6. Defendants also failed to provide Plaintiff and the Aggrieved Employees with 10
11 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated
12 by California law. Defendants did not schedule rest breaks for Plaintiff and the Aggrieved
13 Employees, the Aggrieved Employees were required to remain on premises for rest breaks and
14 thus not allowed freedom to be truly “off duty” for rest breaks, and the Aggrieved Employees
15 were often not authorized and/or permitted to take mandated rest breaks due to being
16 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the
17 Aggrieved Employees worked longer shifts, Defendants failed to authorize and/or permit
18 mandated third rest breaks.

19 7. Plaintiff further alleges that she and the Aggrieved Employees were not paid all
20 wages due and owing each pay period (Labor Code § 204) and upon separation of employment
21 within the time required by Labor Code §§ 201 – 203. Plaintiff further alleges that Defendants
22 engaged in the practice of failing to pay all wages due and owing to Plaintiff and the Aggrieved
23 Employees at the time their employment ended with Defendants, including, but not limited to
24 minimum, regular, and overtime wages, wage premiums, sick wages, among others.

25 8. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
26 statements that fully complied with the requirements of Labor Code § 226(a).

27 9. Plaintiff alleges that Defendants’ violations of the wage and hour components of
28 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their

level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over its competitors.

10. At all material times, Defendants and DOES 1 through 20 were and/or are the Aggrieved Employees' employers or persons acting on behalf of the Aggrieved Employees' employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each underpaid employee as set forth in Labor Code § 558 and under California law.

11. Plaintiff brings this lawsuit on behalf of the State of California, as the real party in interest, to recover all applicable and available PAGA remedies for violations of the California Labor Code committed against the Aggrieved Employees as alleged herein, as well as attorneys' fees, costs, and/or other damages as permitted by PAGA. Plaintiff reserves the right to name additional representatives throughout the State of California.

II. JURISDICTION

12. This Court has jurisdiction over the claims for relief of Plaintiff and the Aggrieved Employees pursuant to the Labor Code and the IWC Wage Orders.

III. VENUE

13. Venue as to each Defendant is proper in this Court pursuant to Code of Civil Procedure § 395(a). Defendants transact business in Orange County and the unlawful acts alleged herein have a direct effect on Plaintiff and the Aggrieved Employees in Orange County. Furthermore, Defendants employed or employ Plaintiff and Aggrieved Employees in Orange County.

IV. PARTIES

Plaintiff

14. Plaintiff and PAGA Representative Cynthia Izquierdo was employed by Defendants from approximately January 2023 through present and performed work for Defendants.

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1 **Defendants**

2 15. Plaintiff is informed and believes and thereon alleges that Defendant Multi-Color
3 Corporation: (a) is an Ohio corporation, (b) is authorized to and doing business in Orange
4 County, California, and (c) is and/or was the legal employer of Plaintiff and the Aggrieved
5 Employees during the applicable statutory periods.

6 16. Plaintiff is informed and believes and thereon alleges that Defendant WS
7 Packaging Group, Inc.: (a) is an Ohio corporation, (b) is authorized to and doing business in
8 Orange County, California, and (c) is and/or was the legal employer of Plaintiff and the
9 Aggrieved Employees during the applicable statutory periods.

10 17. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
11 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
12 inclusive, but on information and belief alleges that those Defendants are legally responsible for
13 the payment of penalties and damages to Plaintiff and all Aggrieved Employees by virtue of
14 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
15 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
16 Defendants when ascertained.

17 18. Plaintiff is informed and believes and thereon alleges that she and the Aggrieved
18 Employees worked under the joint direction and control of Defendants and that Defendants, and
19 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,
20 carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of
21 each Defendant are legally attributable to the other Defendants. On information and belief, a
22 unity of interest and ownership between each Defendant exists such that all Defendants acted as
23 a single employer of Plaintiff and other Aggrieved Employees.

24 19. Furthermore, Plaintiff is informed and believes and thereon alleges that
25 Defendants, and each of them, are an integrated enterprise and should be treated as a single
26 employer because these entities share an interrelation of operations, with common human
27 resources and personnel policies and shared common offices and facilities. Additionally,
28 Defendants also have a shared website, common management, a centralized control of labor

1 operations, and common ownership or financial control.

2 20. Plaintiff is informed and believes and thereon alleges that, in conducting
3 themselves in the manner described herein, Defendants, and each of them, were acting in active
4 concert with one another such that the acts of each were and are fully attributable to the others in
5 all material respects. Plaintiff is further informed and believes that at all relevant times
6 Defendants and each of them are now, and at all material times herein mentioned were, the
7 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
8 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
9 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
10 their remaining co-Defendants.

11 21. Plaintiff is further informed and believes that at all relevant times, Defendants
12 have been inadequately capitalized to conduct business, have failed to follow appropriate
13 corporate formalities, and have simply been a shell and instrumentality through which
14 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
15 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
16 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
17 separate existence of these corporate entities would permit abuse of the corporate privilege,
18 thereby sanctioning fraud and promoting injustice.

19 **V. PAGA CAUSES OF ACTION (Labor Code §§ 2698 – 2699.5)**

20 22. Plaintiff is an “aggrieved employee” under the PAGA as she was employed by
21 Defendants during the applicable statutory period and suffered one or more of the Labor Code
22 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil
23 action filed on behalf of the State of California and for violations committed against the
24 Aggrieved Employees.

25 23. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to
26 Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by
27 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
28 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor

1 does she, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

2 24. Pursuant to Labor Code § 2699.3(a), Plaintiff gave written notice by online filing
3 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to
4 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
5 the facts and theories to support the alleged violations. Now that sixty-five (65) days have
6 elapsed since Plaintiff provided notice of the claims alleged herein without the LWDA assuming
7 jurisdiction over the claims alleged, Plaintiff has fully satisfied her administrative prerequisites
8 for bringing suit under the PAGA.

9 **FIRST CAUSE OF ACTION**

10 **PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES**

11 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

12 *Against All Defendants*

13 25. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
14 alleged herein.

15 26. Plaintiff and the Aggrieved Employees were not exempt from the requirement to
16 be paid at least the applicable California minimum wage throughout the statutory period for each
17 hour worked.

18 27. Plaintiff and the Aggrieved Employees were not provided proper minimum wages
19 due to Defendants’ failure to accurately record and compensate for all hours worked. For
20 instance, Defendants utilized a rounding policy and practice that routinely undercompensated
21 Plaintiff and the Aggrieved Employees and resulted in a net benefit to Defendants and a net loss
22 for Plaintiff and the Aggrieved Employees. In other words, Defendants’ rounding policy is not
23 neutral and results in systematic undercompensation to the Aggrieved Employees for minimum
24 wages. Moreover, Defendants failed to accurately record and compensate for all hours worked.
25 As a result of this policy and practice, Plaintiff and the Aggrieved Employees were required to
26 perform off-the-clock work that Defendants either knew or should have known they were
27 performing.

1 28. As a result of this policy and practice, Plaintiff and the Aggrieved Employees
2 were required to perform off-the-clock work that Defendants either knew or should have known
3 they were performing.

4 29. Consequently, Defendants violated California Labor Code laws and minimum
5 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
6 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

7 30. Plaintiff is informed and believes and thereon alleges that Defendants
8 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
9 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

10 31. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
11 Aggrieved Employees were entitled to be paid wages throughout the statutory period for each
12 hour worked, including proper minimum and regular wages, yet Defendants chose not to pay
13 them in accordance thereto.

14 32. As a result of the unlawful employment practices alleged herein, Plaintiff, on
15 behalf of the State of California, seeks the assessment of all applicable and available PAGA
16 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
17 any other damages permitted under PAGA.

18 **SECOND CAUSE OF ACTION**

19 **PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES**

20 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

21 *Against All Defendants*

22 33. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
23 alleged herein.

24 34. Plaintiff and the Aggrieved Employees were employees of Defendants who did
25 not receive proper protections and benefits of the laws governing payment of overtime wages.

26 35. Labor Code § 204 requires that the employer timely pay all overtime wages to its
27 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
28 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in

any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12) in one workday shall be compensated at twice the regular rate of pay for an employee.

36. At all relevant times, Plaintiff and the Aggrieved Employees were required by Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to Defendants' failure to accurately record and compensate for all hours worked Plaintiff and the Aggrieved Employees did not receive proper overtime compensation.

37. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per week without proper overtime compensation.

38. As a result of these policies and practices, Defendants failed to pay Plaintiff and the Aggrieved Employees for all overtime hours worked.

39. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per week without proper overtime compensation.

40. Plaintiff is informed and believes and thereon alleges that Defendants intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the Aggrieved Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

41. Defendants' conduct was willful, as Defendants knew that Plaintiff and the Aggrieved Employees were entitled to be paid proper overtime wages throughout the statutory period, yet Defendants chose not to pay them in accordance thereto.

42. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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1 **THIRD CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE MEAL PERIODS**

3 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

4 *Against All Defendants*

5 43. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 44. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing mandatory meal
9 periods.

10 45. Labor Code § 226.7 requires employers, including Defendants, to provide
11 employees with meal periods as mandated by the Industrial Welfare Commission.

12 46. Labor Code § 512(a), in part, provides that employers, including Defendants, may
13 not employ an employee for a work period of more than five hours per day without providing an
14 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
15 except that if the total work period per day of the employee is no more than six hours, the meal
16 period may be waived by mutual consent of both the employer and the employee. Employers
17 may not employ an employee for a work period more than 10 hours per day without providing
18 the employee with a second meal period of not less than 30 minutes.

19 47. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
20 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
21 pay for each meal period that is missed.

22 48. At all relevant times herein, Plaintiff and the Aggrieved Employees were denied
23 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
24 practices, Plaintiff and the Aggrieved Employees were subjected to meal period violations when
25 they were: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal
26 period while under the control of the Company, (3) forced to take a shortened meal period, (4)
27 forced to take a meal period after the 5th hour of work, and (5) not provided mandated second
28 meal periods for shifts in excess of 10 hours.

49. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period because Plaintiff and the Aggrieved Employees were not provided with all mandatory meal periods and Defendants failed to pay Plaintiff and the Aggrieved Employees one additional hour of compensation at the regular rate of pay in lieu thereof.

50. On information and belief, Plaintiff and the Aggrieved Employees did not voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not voluntarily agreed to, were a condition of employment, or were a part of a contract of an unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved Employees to take meal periods in accordance with California law.

51. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

FOURTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS

(Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

Against All Defendants

52. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

53. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

54. Labor Code § 226.7 requires employers, including Defendants, to provide rest breaks to its employees as mandated by Order of the Industrial Welfare Commission.

55. The IWC Wage Order § 12 states, in part, that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Employees shall receive a 10-minute rest period every four hours or major fraction thereof that they are required to work. Authorized rest period time shall be counted, as

1 hours worked, for which there shall be no deduction from wages.

2 56. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
3 Order, Defendants shall pay Plaintiff and the Aggrieved Employees one additional hour of pay at
4 their regular rate of compensation for each day that the rest period is not provided.

5 57. At all relevant times, Defendants also failed to provide Plaintiff and the
6 Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major
7 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks for the
8 Aggrieved Employees, the Aggrieved Employees were unable to leave the premises for breaks,
9 and the Aggrieved Employees were often not authorized and/or permitted to take mandated rest
10 breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when the
11 Aggrieved Employees worked longer shifts, Defendants failed to authorize and/or permit
12 mandated third rest breaks.

13 58. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
14 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with
15 all mandatory rest periods and Defendants failed to pay Plaintiff and the Aggrieved Employees
16 one additional hour of compensation in lieu thereof.

17 59. As a result of the unlawful employment practices alleged herein, Plaintiff, on
18 behalf of the State of California, seeks the assessment of all applicable and available PAGA
19 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
20 any other damages permitted under PAGA.

21 **FIFTH CAUSE OF ACTION**

22 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

23 (Labor Code § 204)

24 *Against All Defendants*

25 60. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
26 alleged herein.
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61. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees of Defendants who did not receive proper protections and benefits of the laws regarding the timing of payment of wages each period.

62. Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month.

63. Furthermore, Labor Code § 204(d) states “[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.”

64. At all relevant times herein, Defendants did not provide Plaintiff and the Aggrieved Employees with all wages due and owing each pay period, including, but not limited to, minimum, regular, and overtime wages, as well as meal and rest period premiums, within the time specified by Labor Code § 204.

65. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

SIXTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201 – 203)

Against All Defendants

66. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

67. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing the timing and payment of wages.

1 68. Labor Code § 201 requires that the employer immediately pay any wages, without
2 abatement or reduction, to any employee who is discharged.

3 69. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
4 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
5 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

6 70. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
7 penalty from the due date thereof at the same rate until paid or until an action therefore is
8 commenced, but the wages shall not continue for more than thirty (30) days.

9 71. At all relevant times, Defendants employed a policy and practice whereby
10 Plaintiff and the Aggrieved Employees were not paid all wages due and owing upon separation
11 of employment within the time required by Labor Code §§ 201 and 202.

12 72. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
13 wages due and owing to Plaintiff and the Aggrieved Employees upon separation of employment,
14 including, but not limited to, minimum, regular, and overtime wages, meal and rest period
15 premiums, and vested vacation wages.

16 73. Additionally, at all relevant times, Defendants failed to pay all mandated sick
17 wages owed to the Aggrieved Employees at the proper rate of pay under Labor Code § 246(l).

18 74. Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees
19 must be “calculated in the same manner as the regular rate of pay for the workweek in which the
20 employee uses paid sick time, whether or not the employee actually works overtime in that
21 workweek.” Additionally, Labor Code § 246(l)(2) states that the paid sick time must be
22 “calculated by dividing the employee’s total wages, not including overtime premium pay, by the
23 employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

24 75. Here, Defendants only calculated and paid sick pay at the base rate of pay, rather
25 than at the rate required by Labor Code § 246, leading to unpaid sick pay and violations of Labor
26 Code §§ 201 – 203.

76. Plaintiff alleges that, at all times material to this action, Defendants had a planned pattern and practice of failing to timely pay Plaintiff and the Aggrieved Employees all wages due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

77. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

SEVENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code § 226)

Against All Defendants

78. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

79. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing the provision of accurate itemized wage statements.

80. Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, all deductions, net wages earned, the inclusive dates of the pay period, the employee's name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

81. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff and the Aggrieved Employees due to violations including: failure to accurately state total hours worked (for example, the wage statements failed to accurately reflect the compensable hours worked); failure to accurately state gross wages earned; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state the applicable hourly rates (including

the accurate overtime rate of pay); failure to accurately state the corresponding number of hours worked at each hourly rate; and failure to accurately identify the name and address of the legal entity of the employer.

82. Additionally, Defendants' wage statements directly violated Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied meal periods and rest breaks under § 226.7.

83. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff and the Aggrieved Employees because Defendants failed to provide a wage statement to Plaintiff and the Aggrieved Employees that complied with the requirements of § 226(a).

84. Unlike class action claims, a PAGA plaintiff need not meet the "injury" and "knowing and intentional" violation requirements of Labor Code § 226(e). See *Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th 773, 788 ("a plaintiff seeking civil penalties under PAGA for a violation of section 226(a) does not have to satisfy the "injury" and "knowing and intentional" requirements of section 226(e)(1)"); See also *Lawson v. ZB, N.A.* (2017) 18 Cal.App.5th 705, 722 ("the scienter requirement [of § 226(e)] has no application in a PAGA claim for violation of [§ 226(a)]").

85. As a result of the Defendants' violations of Labor Code § 226, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

VI. PRAYER FOR RELIEF

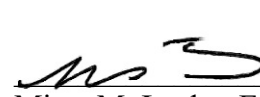
WHEREFORE, Plaintiff, on behalf of the State of California as the real party in interest, prays for judgment and relief against Defendants, jointly and severally, as follows:

1. For the assessment of all remedies and/or penalties available under the PAGA;
2. For reasonable attorneys' fees and costs of suit to the extent permitted by law; and
3. For such other and further relief as the Court deems just and proper.

1 Dated: May 29, 2024

LAUBY, MANKIN & LAUBY LLP

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3 BY:

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5 Misty M. Lauby, Esq.
6 Attorney for Plaintiff
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