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SALVATORE QUINTANILLA,
and all putative class members

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

SALVATORE QUINTANILLA, an individual,
on behalf of himself and all others similarly
situated,

Plaintiff,

vs.

PROCTER & GAMBLE DISTRIBUTING
LLC, a Delaware limited liability company,
and DOES 1-50, inclusive,

Defendant.

Case No.: CVRI2402644

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Failure to Pay all Hours Worked,
Including Overtime Hours Worked
2. Improper Calculation of Regular Rate
of Pay
3. Failure to Pay All Wages Owed Twice
Per Month
4. Failure to Pay Minimum Wage
5. Failure to Provide Rest Breaks
6. Failure to Provide Proper Cool-Down
Rest Periods
7. Failure to Provide Uninterrupted
Meal Breaks
8. Failure to Reimburse for Required
Business Expenses
9. Failure to Pay Wages Due Upon
Termination
10. Failure to Provide Accurate Itemized
Wage Statements & Violation of
Record Keeping Requirements
11. Unlawful Business Practices
Bus & Prof. Code §17200
12. Private Attorneys General Act
Penalties (Lab. Code §2699)

JURY TRIAL DEMANDED

1 Plaintiff SALVATORE QUINTANILLA, individually, and on behalf of all others
2 similarly situated, all aggrieved employees, and as a Private Attorneys General for the State of
3 California, (collectively “Plaintiff”), alleges as follows:

4 NATURE OF THE ACTION

5 1. This is an employment class and representative action on behalf of over 100 hourly, non-
6 exempt employees against their employer for violations of numerous wage and hour laws. Plaintiff
7 brings this employment class action complaint on behalf of himself, and all others similarly
8 situated, all aggrieved employees, and as a Private Attorney General for the State of California,
9 against PROCTER & GAMBLE DISTRIBUTING LLC, and DOES 1-50, inclusive, (hereafter
10 collectively “Defendant” or “Defendants”).

11 2. Defendant PROCTER & GAMBLE DISTRIBUTING LLC is a multinational consumer
12 goods corporation with locations across California. Plaintiff SALVATORE QUINTANILLA
13 worked as an employee for Defendant in their Moreno Valley, California location until August 24,
14 2023, as an hourly, non-exempt employee. Plaintiff and the proposed class earn at or near
15 minimum wage.

16 3. As described further below, Defendant has violated the California Labor Code by (1)
17 failing to pay for all hours worked, including overtime hours worked (§200, 204, 206, 206.5, 210,
18 216, 218, 218.6, 221, 223, 510, 511, 558, 1194, 1197, 1197.1, 1198); (2) failing to pay overtime
19 wages (§218, 510 *et. seq.*, 1194); (3) failing to pay all wages owed twice per month (§204, 210);
20 (4) failing to pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199);
21 (5) failing to provide rest breaks (§226, 226.7, 512, 558, 1198); (6) failing to provide proper cool-
22 down rest periods (§226.7, 1198); (7) failing to provide uninterrupted meal breaks (§226, 226.7,
23 512, 558, 1198); (8) failing to reimburse for required business expenses (§1198, 2802); (9) failing
24 to pay wages due upon termination (§201, 202, 203, 256); (10) failing to provide accurate itemized
25 wage statements and violating record keeping requirements (§226, 1174, 1174.5); (11) unlawful
26 and unfair business practices (Bus. & Prof. Code §17200, *et. seq.*); and (12) penalties under the
27 Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.* based on the allegations above,
28 in addition to Defendant’s failure to properly calculate and pay sick leave wages (Cal. Labor Code

§246), failure to provide safe working conditions (§1198, Wage Orders), and failure to provide a place of employment that is safe and healthful (§6400, 6401, 6402, 6403, 6404, 6407).

4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”) §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and reasonable attorneys’ fees and costs. Pursuant to the class and representative action procedures provided for under California law, Plaintiff, on behalf of himself and proposed Class Members (also referred to as “Class”), also seeks injunctive relief and restitution of all benefits Defendant has received from their unlawful actions as alleged herein. Plaintiff has also provided notice of these claims pursuant to §2698 et. seq., to the Labor and Workforce and Development Agency (“LWDA”) and now brings this First Amended Complaint, including claims for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 et seq. Attorney General Act (“PAGA”), Labor Code §2698 et seq.

5. The “Class Period” is designated as the four-year period prior to the filing of this Complaint through the date of the final disposition of this action. From the start of the Class Period through the present, Defendant has had a policy and/or practice of among other violations: late and/or interrupted meal breaks, untimely and/or interrupted rest breaks, issuing inaccurate wage statements, and ignoring and violating California wage and hour laws, in their business as more fully set forth below.

6. The “PAGA Period” is defined herein commences one year prior to the date of filing the PAGA Notice letter with the LWDA.

7. Defendant has treated all persons employed in California in such a way as to violate California’s laws governing conditions of employment and payment of wages owed. Plaintiff asserts that Defendant has knowingly and with conscious disregard of the law refused to pay the Class Members and aggrieved employees all wages owed, including overtime wages and meal and rest break penalty wages. Defendant has violated numerous Labor Code provisions, as set forth herein. Class Members are owed their back pay, plus interest and/or premiums and penalties under

1 Business and Professions Code section 17203 to compensate Class Members and aggrieved
2 employees for the delay in receiving wages due.

3 8. Defendant, by and through their actions, has engaged in unfair competition, requiring
4 restitution to persons affected and disgorgement of profits so obtained.

5 **THE PARTIES**

6 9. Plaintiff SALVATORE QUINTANILLA is an individual who resides in California and
7 worked for Defendant until August 24, 2023.

8 10. Defendant PROCTER & GAMBLE DISTRIBUTING LLC, is a Delaware limited
9 liability company doing business in California with the capacity to sue and to be sued and doing
10 business, in Riverside County, State of California. Defendant exercised control over the wages,
11 hours, and/or working conditions of Plaintiff and members of the proposed class and aggrieved
12 employees throughout the liability periods.

13 11. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true
14 names and capacities are unknown to Plaintiff. When their true names and capacities are
15 ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein.
16 Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant
17 is responsible in some manner for the occurrences herein alleged, and that the damages sustained
18 by Plaintiff and the Class Members herein alleged were proximately caused by such Doe
19 Defendants.

20 12. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
21 indirectly, or through agents or other persons, employed Plaintiff and other members of the Class,
22 and exercised control over their wages, hours, and working conditions. Plaintiff is informed and
23 believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the
24 agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects
25 pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

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14. The monetary damages, restitution, and statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties, and attorney's fees, is more than twenty-five thousand dollars (\$25,000) and less than five million dollars (\$5,000,000).

15. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendant is incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

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17. Defendant failed to consistently pay for overtime hours worked. Plaintiff and 200-250 other Class Members and aggrieved employees came on shift at the same time, disbursed between only a handful of time clocks. This often resulted in wait times at the time clocks before each shift of a minimum of 5 minutes. Because Plaintiff and his coworkers worked overtime on numerous occasions, this wait time often resulted in underpaid overtime.

18. Defendant failed to consistently properly calculate overtime rate. Defendant from time to time paid bonuses, including a nondiscretionary bonus Plaintiff recalls being termed “LMS” which was a payment based upon productivity. This bonus was not always incorporated into Class Members’ and aggrieved employees’ regular rate of pay for purposes of calculating overtime, sick pay, or premium pay, and was from time to time left out resulting in underpaid wages.

1 19. Defendant from time to time failed to pay all wages owed twice per month.

2 20. Defendant also from time to time failed to pay minimum wage due to their practices.

3 21. Defendant from time to time failed to maintain a policy and practice that provides its
4 employees with off-duty rest periods and cool-down rest periods as required by California law.

5 22. Defendant from time to time failed to maintain a policy and practice that provides its
6 employees with timely meal breaks as required by California law.

7 23. Defendant from time to time failed to reimburse for required business expenses.
8 Plaintiff and Class Members and aggrieved employees were required to periodically purchase
9 boots and special apparel to complete their jobs. Defendant provided a modest shoe allowance
10 which was not always sufficient to reimburse its low-wage employees for the cost of the shoes and
11 required apparel. Defendant failed to consistently reimburse employees for these necessary
12 business expenses.

13 24. Defendant from time to time failed to pay all wages due upon termination.

14 25. Defendant from time to time further failed to provide timely, accurate, itemized wage
15 statements to employees, as well as maintain accurate records, in accordance with Labor Code §§
16 226 and 1174.

17 26. Defendant failed to include all forms of compensation, including nondiscretionary
18 bonuses such as “LMS” payments based on productivity, into the regular rate of pay for purposes
19 of calculating overtime, sick pay, and premium pay. Plaintiff, Class Members, and aggrieved
20 employees were paid sick leave wages at their base hourly rates of pay, which is less than required
21 under either of the two alternative methods of calculation provided by Labor Code section 246(1).

22 27. Defendant’s workplaces would get unsafely hot. As explained above, Plaintiff and
23 Defendant’s employees were forced to work in incredibly hot workspaces, with air conditioning
24 only provided when the merchandise required it. Plaintiff and Defendant’s employees worked in
25 unbearable heat.

26 28. The Wage Orders require:
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1 A. The temperature maintained in each work area shall provide reasonable comfort
2 consistent with industry-wide standards for the nature of the process and the
3 work performed.

4 B. If excessive heat or humidity is created by the work process, the employer shall
5 take all feasible means to reduce such excessive heat or humidity to a degree
6 providing reasonable comfort.

7 29. By violating the wage order, and therefore Labor Code section 1198, Defendant is
8 liable for civil penalties pursuant to §2698 *et seq.*

9 30. Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and
10 a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401
11 provides that “every employer shall furnish and use safety devices and safeguards, and shall adopt
12 and use practices, means, methods, operations, and processes which are reasonably adequate to
13 render such employment and place of employment safe and healthful. Pursuant to Cal. Labor Code
14 §6402, no employer shall require, or permit any employee to go or be in any employment or place
15 of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer
16 shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render
17 the employment and place of employment safe, or to adopt and use methods and processes
18 reasonably adequate to render the employment and place of employment safe, or to do every other
19 thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code §
20 6404 provides that no employer shall occupy or maintain any place of employment that is not safe
21 and healthful. Cal. Labor Code § 6407 provides that every employer and every employee shall
22 comply with occupational safety and health standards, with Section 25910 of the Health and Safety
23 Code, and with all rules, regulations, and orders pursuant to this division which are applicable to
24 his own actions and conduct. Defendant employed their employees under unsafe conditions due to
25 excessive heat as described above. As a result of the practices described herein, Defendant violated
26 Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and
27 healthful environment for aggrieved employees and is liable for civil penalties pursuant to Cal.
28 Labor Code §2699 *et seq.*

1 31. Based upon the above allegations, Defendant engaged in unfair competition.

2 32. Plaintiff brings this action on behalf of himself, and all other persons similarly situated,
3 to recover from Defendant for failure to comply with California wage and hour laws, and for claims
4 under Business and Professions Code § 17200.

5 33. This action has been brought and may properly be maintained as a class action
6 pursuant to the provisions of Code of Civil Procedure §382 because the proposed class is
7 ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 100
8 employees who have been similarly injured by Defendant's unlawful employment policies and
9 practices.

10 34. The "PAGA Period" is defined herein commences one year prior to the date of filing
11 the PAGA Notice letter with the LWDA.

12 35. The PAGA Class, also referred to herein as "aggrieved employees": "All current and
13 former hourly, non-exempt employees of Defendants in California, at any time from one year prior
14 to the filing of the PAGA Notice letter with the LWDA until the resolution of this matter." Plaintiff
15 reserves the right to amend or modify the definition of aggrieved employees with respect to the
16 issues or in any other way.

17 36. The "Class Period" as defined herein commences four years prior to the date of filing
18 of the Complaint in this Action.

19 37. Plaintiff brings this action on their behalf and as a class action under Cal. Code of
20 Civil Procedure §382 on behalf of the following defined groups:

21 38. Proposed Class: "All persons who are employed or have been employed by Defendant
22 in the State of California as hourly, non-exempt workers during the period of the relevant statute
23 of limitations."

24 39. Proposed Sub-classes:

25 A. All persons who are employed or have been employed by Defendant in the State
26 of California as hourly, non-exempt workers during the period of the relevant
27 statute of limitations, who worked one or more shift in excess of five (5) hours.
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- 1 B. All persons who are employed or have been employed by Defendant in the State
2 of California as hourly, non-exempt workers during the period of the relevant
3 statute of limitations, who worked one or more shifts in excess of six (6) hours.
- 4 C. All persons who are employed or have been employed by Defendant in the State
5 of California as hourly, non-exempt workers during the period of the relevant
6 statute of limitations, who worked one or more shifts in excess of eight (8)
7 hours.
- 8 D. All persons who are employed or have been employed by Defendant in the State
9 of California as hourly, non-exempt workers during the period of the relevant
10 statute of limitations, who worked one or more shifts in excess of three and one-
11 half hours (3 ½), but less than or equal to six (6) hours.
- 12 E. All persons who are employed or have been employed by Defendant in the State
13 of California as hourly, non-exempt workers during the period of the relevant
14 statute of limitations, who worked one or more shifts in excess of six (6) hours,
15 but less than or equal to ten (10) hours.
- 16 F. All persons who are employed or have been employed by Defendant in the State
17 of California as hourly, non-exempt workers during the period of the relevant
18 statute of limitations, who separated their employment from Defendant.
- 19 G. All persons who are employed or have been employed by Defendant in the State
20 of California as hourly, non-exempt workers during the period of the relevant
21 statute of limitations, who received pay for one or more pay periods.

22 40. This action is brought, and may properly be maintained, as a class action under CCP
23 §382 and/or a representative action under Business & Professions Code §§17200 et seq. and Labor
24 Code §2699 because there is a well-defined community of interest in the litigation, and the
25 proposed Class, PAGA Class, and Subclasses (collectively “Class”) are easily ascertainable.

26 41. Numerosity: The Proposed Class is so numerous that joinder of all members is
27 impractical. Plaintiff is informed and believes, and on that basis alleges, that during the relevant
28 time period, Defendant employed over 100 putative Class Members who are geographically

1 dispersed and who satisfy the definition of the proposed Class. As such, a class action is the only
2 available method for the fair and efficient adjudication of this controversy. Membership in the
3 Proposed Class can be easily ascertained by an examination and analysis of employee and payroll
4 records, among other records within Defendant's possession and control.

5 42. Typicality: Plaintiff's claims are typical of the claims of the Class Members. Plaintiff,
6 like others similarly situated, was subjected to Defendant's common, unlawful policies, practices,
7 and procedures described above. The Plaintiff's positions at the company was typical of those of
8 other Class Members. Plaintiff's claims are typical of the claims of each Class Member because
9 each have sustained damages arising out of and caused by Defendant's common course of conduct,
10 as alleged herein. As such, Plaintiff has the same interests in this matter as all members of the
11 Class.

12 43. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
13 the Class. Plaintiff has retained counsel competent and experienced in complex class actions and
14 California labor and employment litigation.

15 44. Commonality: Common questions of law and fact exist, including but not limited to
16 the following:

- 17 i. Whether Defendant violated wage and hour laws by failing to pay overtime
18 wages;
- 19 ii. Whether Defendant violated wage and hour laws by failing to pay sick leave
20 wages and whether such failure constituted unfair business practices;
- 21 iii. Whether Defendant violated wage and hour laws by failing to pay all wages
22 owed twice per month;
- 23 iv. Whether Defendant violated wage and hour laws by failing to pay minimum
24 wage;
- 25 v. Whether Defendant violated wage and hour laws by failing to provide timely
26 meal breaks;
- 27 vi. Whether Defendant's policy and practice concerning meal breaks was
28 unlawful;

- vii. Whether Defendant violated wage and hour laws by failing to provide rest breaks;
- viii. Whether Defendant's policy and practice concerning rest breaks was unlawful;
- ix. Whether Defendant violated wage and hour laws by failing to provide cool-down rest periods;
- x. Whether Defendant's policy and practice concerning cool-down rest breaks was unlawful;
- xi. Whether Defendant violated wage and hour laws by failing to reimburse for required business expenses;
- xii. Whether Defendant violated wage and hour laws by failing to pay all wages owed upon termination;
- xiii. Whether Defendant unlawfully failed to keep and furnish Class Members with accurate, itemized records of hours worked, in violation of Labor Code §§ 226 and 1174;
- xiv. The proper measure of damages sustained and the proper measure of restitution recoverable by Plaintiff, the Class Members, and Subclass Members;
- xv. Whether the Class Members are entitled to injunctive relief to enjoin any further violations of wage and labor laws;
- xvi. Whether Defendant, and each of them, are/were participants in the alleged unlawful and/or tortious conduct;
- xvii. Whether Defendant's conduct was willful and reckless;
- xviii. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff Class and the appropriate amount of reimbursement, restitution, damages, or other compensation; and
- xix. What is the extent of liability of each Defendant, including DOE defendants, to each Class and Subclass member?

1 45. Superiority: A class action is superior to other available methods of the fair and
2 efficient adjudication of the controversy, particularly in the context of wage and hour litigation
3 where the damage suffered by individual plaintiffs, while not inconsequential, makes individual
4 actions impracticable given the expenses and burdens associated with seeking individual relief.
5 Prosecuting over 100 identical, individual lawsuits does not promote judicial efficiency or equity
6 and consistency in judicial results. Moreover, the Class is a group of hourly, low-wage earning
7 employees who rely on their wages and requiring that each individual take time away from work
8 to prosecute individual actions would be inequitable and result in undue hardship for the individual
9 Class members and their families. Public policy favors efficient resolution of their claims and
10 uniform enforcement of California Labor laws against entities skirting their legal obligations at the
11 expense of a vulnerable working population.

12 46. Manageability: Plaintiff is informed and believes that all allegations in this Complaint
13 are capable of being determined on the same evidence and based primarily on review of corporate
14 records and key testimony of Defendant's corporate representatives. To the extent statistical
15 analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ
16 competent experts and consultants in the field to determine and review evidence for both issues of
17 liability and damages in a scientifically reliable manner.

18 47. Plaintiff requests, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California Rules
19 of Court, that the absent Class and Subclass Members be notified by the best notice practicable
20 under the circumstances, including individual notice to all members who can be identified through
21 reasonable effort. The names and address of the Class and Subclass Members are available from
22 Defendant.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY FOR ALL HOURS WORKED, INCLUDING OVERTIME**

3 Cal. Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558, 1194,
4 1197, 1197.1, 1198.

5 **(Plaintiff Against All Defendants)**

6 48. Plaintiff incorporates by reference in this cause of action each allegation of the
7 preceding paragraphs as though fully set forth herein.

8 49. Defendant's conduct described in this complaint violates the provisions of Labor Code
9 §§ 200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558, 1194, 1197, 1197.1, 1198.

10 50. The Wage Orders define "hours worked" as "the time during which an employee is
11 subject to the control of an including all the time the employee is suffered or permitted to work,
12 whether or not required to do so." Defendant has from time to time been engaged in many unlawful
13 employment practices which on occasion resulted in underpayment for hours worked each pay
14 period.

15 51. Plaintiff and 200-250 other Class Members came on shift at the same time, disbursed
16 between only a handful of time clocks. This sometimes resulted in wait times at the time clocks
17 before shifts. Because Plaintiff and his coworkers worked overtime often, this wait time from time
18 to time resulted in underpaid overtime. Plaintiff and Class Members were also sometimes
19 interrupted during unpaid meal periods, resulting in additional off the clock work. Furthermore, if
20 Plaintiff or Class Members were required to complete a task before being allowed to take a meal
21 period, the time clock entry would be modified to appear as if a timely meal period was taken,
22 resulting in a short meal period and unpaid hours worked.

23 52. Defendant's conduct described herein violates Labor Code §§ 200, 223, 226, 500, 1197
24 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5,
25 226, 558, 1194 and 1194.2, Plaintiff and other Class Members are entitled to recover damages for
26 the nonpayment of wages of all their worked hours in addition to penalties, attorneys' fees,
27 expenses, and costs of suit.

1 **SECOND CAUSE OF ACTION**

2 **IMPROPER CALCULATION OF REGULAR RATE OF PAY FOR PURPOSES OF**
3 **CALCULATING OVERTIME AND PREMIUM WAGES**

4 Cal. Lab. Code §§218, 510, 1194

5 (Plaintiff Against All Defendants)

6 53. Plaintiff incorporates by reference in this cause of action each allegation of the
7 preceding paragraphs as though fully set forth herein.

8 54. Defendant's conduct described in this complaint from time to time violates the
9 provisions of Labor Code §§ 18, 510, 1194.

10 55. Defendant from time to time pays nondiscretionary bonuses to its hourly, non-exempt
11 employees. It is well established that nondiscretionary bonuses, such as the bonuses at issue,
12 retroactively increase the employee's "regular rate" of pay for purposes of calculating overtime.
13 (Labor Code §207) The "regular rate" is calculated by dividing the hours worked in a week by all
14 the compensation earned for that week. When an employee is later paid a bonus that is partly due
15 to work performed in that week, this additional pay must be added into the total compensation for
16 the week, increasing the employee's regular rate of pay. (*Marin v. Costco Wholesale Corp.* (2008)
17 169 CA4th 804, 807.)

18 56. Defendant sometimes paid bonuses, including a nondiscretionary bonus Plaintiff
19 recalls being termed "LMS" which was a payment based upon productivity. This bonus was not
20 consistently incorporated into Class Members' regular rate of pay for purposes of calculating
21 overtime, sick pay, or premium pay.

22 57. Defendant's periodic underpayment of wages, including overtime, premium pay, and
23 sick wages, resulted in periodic underpayment to employees and unlawful and unfair business
24 practices.

25 58. Defendant has failed to consistently properly calculate Class Members' regular rate of
26 pay.. Plaintiff and other employees have been denied "the unpaid balance of the full amount of
27 this... overtime compensation" as required by Cal. Labor Code. §1194. Additionally, Defendant
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1 from time to time has violated Cal. Labor Code §218 and §510 and applicable Industrial Welfare
2 Commission Wage Orders at sections (3)(A)(1) for failure to pay overtime.

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PAY ALL WAGES OWED TWICE PER MONTH**

5 Cal. Lab. Code §§204, 210

6 **(Plaintiff Against All Defendants)**

7 59. Plaintiff incorporates by reference in this cause of action each allegation of the
8 preceding paragraphs as though fully set forth herein.

9 60. Defendant's conduct described in this complaint violates the provisions of Labor Code
10 §§ 204, 210.

11 61. Defendant was required to pay Plaintiff and Class Members all wages earned twice
12 during each calendar month pursuant to Labor Code §204(a). Defendant from time to time failed
13 to pay all wages earned to employees as a result of the unlawful employment policies and practices
14 discussed herein. As a result of these practices, Class Members were underpaid for hours worked,
15 including overtime and penalty wages, and this underpayment sometimes resulted in a failure to
16 pay all wages owed twice per month. Due to this failure, Defendant is liable under Labor Code
17 §210 for failure to pay wages as required by law.

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PAY MINIMUM WAGE**

20 Cal. Lab. Code §§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199)

21 **(Plaintiff Against All Defendants)**

22 62. Plaintiff incorporates by reference in this cause of action each allegation of the
23 preceding paragraphs as though fully set forth herein.

24 63. Defendant's conduct described in this complaint violates the provisions of Labor Code
25 §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199.

26 64. Pursuant to Labor Code §§ 1194, 1194.2 and 1197, it is unlawful for an employer to
27 suffer or permit a California employee to work without paying wages at the proper minimum wage
28 for all time worked as required by the Applicable Wage Orders. Pursuant to the Applicable Wage

1 Orders “hours worked” include “the time during which an employee is subject to the control of an
2 employer, and includes all the time the employee is suffered or permitted to work, whether or not
3 required to do so.”

4 65. During the applicable recovery period, Plaintiff and Class Members from time to time
5 were suffered, permitted, and required to perform work by Defendant for which they received no
6 pay. The aforementioned acts by Defendant were on certain occasions undertaken with the
7 intention of depriving Class Members of their earned wages.

8 **FIFTH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE REST BREAKS**

10 Cal. Labor Code §§ 226, 226.7, 512, 558, 1198

11 (Plaintiff Against All Defendants)

12 66. Plaintiff incorporates by reference in this cause of action each allegation of the
13 preceding paragraphs as though fully set forth herein.

14 67. Defendant’s conduct described in this complaint from time to time violates the
15 provisions of Labor Code §§ 226, 226.7, 512, 558, 1198.

16 68. Defendant has from time to time failed to maintain a compliant rest period policy and
17 practice that provides its employees with off-duty rest periods as required by California law.
18 Plaintiff reports receiving late rest breaks on certain occasions because Plaintiff and Class
19 Members were sometimes required to complete certain tasks and fulfill orders in progress before
20 taking breaks.

21 69. Defendant did not consistently authorize or permit all of its hourly employees to take
22 at least a ten-minute timely rest period in which they were relieved of all duties, for every 4 hours
23 of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage
24 Orders. When breaks were missed Defendant from time to time failed to pay the 1-hour premium
25 pay, as required. Because Defendant violated the Wage Order, Defendant is liable to Plaintiff and
26 Class Members under Labor Code §1198.

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FAILURE TO PROVIDE PROPER COOL-DOWN REST PERIODS

(Plaintiff Against All Defendants)

71. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226.7, and 1198.

A. If an employer fails to provide an employee a... recovery period in accordance with a state, law, including, but not limited to an applicable statute or applicable regulation, standard, or order of the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

74. On these hot days, Class Members did not always receive sufficient cool down rest periods because Defendant from time to time discouraged employees from taking cool-down rest breaks. Employers who fail to provide required recovery periods are liable for damages under Labor Code 226.7.

1 75. When breaks were from time to time missed, late, or noncompliant, Defendant failed
2 to consistently pay the 1-hour premium, as required. Plaintiff's wage statements do not show some
3 required rest period premium pay. Because Defendant violated the Wage Order, Defendant is liable
4 to Plaintiff and Class Members under Labor Code §1198.

5 **SEVENTH CAUSE OF ACTION**

6 **FAILURE TO PROVIDE UNINTERRUPTED MEAL BREAKS**

7 Cal. Labor Code §§ 226, 226.7, 512, 558, 1198.

8 (Plaintiff Against All Defendants)

9 76. Plaintiff incorporates by reference in this cause of action each allegation of the
10 preceding paragraphs as though fully set forth herein.

11 77. Defendant's conduct described in this complaint violates the provisions of Labor Code
12 §§ 226, 226.7, 512, 558, 1198.

13 78. During Plaintiff's employment, Defendant from time to time failed to maintain a
14 compliant meal period policy and practice. Defendant sometimes failed to provide all of its hourly
15 employees with their right to take a timely off-duty unpaid 30-minute meal period. Labor Code
16 §512 provides, "[a]n employer may not employ an employee for a work period of more than five
17 hours per day without providing the employee with a meal period of not less than 30 minutes..."
18 Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any
19 meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph
20 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty
21 during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and
22 counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation
23 of the Labor Code.

24 79. Plaintiff and Class Members on certain occasions experienced late, short, and/or
25 interrupted meal periods, or their meal periods were from time to time missed altogether.
26 Defendant from time to time required Plaintiff and Class Members to complete tasks, such as
27 filling big orders, before taking meal breaks, resulting in late and short meal breaks. Additionally,
28 when meal breaks were late, Defendant from time to time would modify the time records so they

1 would show a facially complaint meal break, which is unlawful. Making matters worse, Class
2 Members from time to time worked shifts exceeding 10 hours and were therefore required to have
3 a second meal period. Defendant periodically required employees to sign a second meal period
4 waiver, but such waivers are only effective when the first meal break was compliant, resulting in
5 additional meal period violations.

6 80. Full, uninterrupted, off-duty, thirty-minute meal periods were not consistently provided
7 because Defendant, from time to time: (1) did not account for all hours worked that were
8 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
9 rights to meal periods and premium payments for non-compliant meal periods; (3) did not
10 adequately inform and train employees about when, where and how to take timely and
11 uninterrupted thirty-minute meal periods; (4) because Defendant did not staff enough people to
12 schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management
13 at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce
14 a lawfully compliant meal period policy. Plaintiff and Class Members were not paid a premium
15 payment, paid as an hour's wage when meal periods were not given to them in compliance with
16 California law.

17 **EIGHTH CAUSE OF ACTION**

18 **FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES**

19 Cal. Labor Code §§ 1198, 2802

20 (Plaintiff Against All Defendants)

21 81. Plaintiff incorporates by reference in this cause of action each allegation of the
22 preceding paragraphs as though fully set forth herein.

23 82. Defendant's conduct described in this complaint from time to time violated the
24 provisions of Labor Code §§ 1198, 2802.

25 83. Labor Code §2802 requires employers to indemnify employees for necessary
26 expenditures or losses incurred by employees in direct consequence of discharge of duties. Here,
27 Plaintiff and Class Members were required to periodically purchase boots and special apparel to
28

1 complete their jobs. Defendant provided a modest shoe allowance which was not always sufficient
2 to reimburse its low-wage employees for the cost of the shoes and required apparel.

3 **NINTH CAUSE OF ACTION**

4 **FAILURE TO PAY WAGES DUE UPON TERMINATION**

5 Cal. Labor Code §§ 201, 202, 203

6 **(Plaintiff Against All Defendants)**

7 84. Plaintiff incorporates by reference in this cause of action each allegation of the
8 preceding paragraphs as though fully set forth herein.

9 85. Defendant's conduct described in this complaint from time to time violates the
10 provisions of Labor Code §§ 201, 202, 203.

11 86. An employee who is discharged must be paid all of his or her wages, including accrued
12 vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set
13 forth above, Defendant knowingly and willfully failed to pay all compensation due and owing to
14 Plaintiff at the time employment terminated.

15 87. Defendant on certain occasions willfully failed to pay employees who are no longer
16 employed by it all compensation due upon termination of employment as required by Cal. Lab.
17 Code §§201 and 202. Plaintiff, Class Members and similarly situated individuals are now entitled
18 to recover up to thirty (30) days pay as waiting time under the terms of §203.

19 **TENTH CAUSE OF ACTION**

20 **PAYSTUB AND RECORD KEEPING VIOLATIONS**

21 Cal. Labor Code §§ 226, 1174, 1174.5

22 **(Plaintiff Against All Defendants)**

23 88. Plaintiff incorporates by reference in this cause of action each allegation of the
24 preceding paragraphs as though fully set forth herein.

25 89. Defendant's conduct described in this complaint on certain occasions violates the
26 provisions of Labor Code §§ 226, 1174, 1174.5.

1 90. Defendant from time to time knowingly and intentionally failed to provide timely,
2 accurate, itemized wage statements to Plaintiff and the Class Members in accordance with Labor
3 Code §§ 226 and keep accurate records as required by §1174(d).

4 91. The statements provided to Plaintiff and Class Members, and the records maintained
5 by Defendant, do not consistently the correct legal name of the employer. The specific wage
6 statements in Plaintiff's possession list "P&G Distributing LLC" as the employer. However, an
7 entity named "P&G Distributing LLC" is not listed as a legal entity on the California Secretary of
8 State website. Defendant's legal name is Procter & Gamble Distributing LLC.

9 92. In addition to the facial wage statement violation appearing on certain wage statements,
10 derivative of the claims above, wage statements issued to Plaintiff and Class Members have not
11 always accurately reflected actual gross wages earned, including pay for all hours worked and the
12 accurate rate of pay for all hours worked, and overtime pay, and pay for meal and rest period
13 premium wages.

14 93. §226 (a) requires:

15 A. An employer, semimonthly or at the time of each payment of wages,
16 shall furnish to his or her employee, either as a detachable part of the check,
17 draft, or voucher paying the employee's wages, or separately if wages are paid
18 by personal check or cash, an accurate itemized statement in writing showing
19 (1) gross wages earned, (2) total hours worked by the employee, except as
20 provided in subdivision (j), (3) the number of piece-rate units earned and any
21 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
22 deductions, provided that all deductions made on written orders of the employee
23 may be aggregated and shown as one item, (5) net wages earned, (6) the
24 inclusive dates of the period for which the employee is paid, (7) the name of the
25 employee and only the last four digits of his or her social security number or an
26 employee identification number other than a social security number, (8) the
27 name and address of the legal entity that is the employer and, if the employer is
28 a farm labor contractor, as defined in subdivision (b) of Section 1682, the name

1 and address of the legal entity that secured the services of the employer, and (9)
2 all applicable hourly rates in effect during the pay period and the corresponding
3 number of hours worked at each hourly rate by the employee...

4 94. Such failures called injury to Plaintiff and others, by, among other things, impeding
5 them from knowing the true legal name of their employer, the total hours worked, and the amount
6 of wages to which they are and were entitled. Defendant from time to time knowingly and
7 intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours
8 worked.

9 95. Finally, Defendant has violated Labor Code §432.5 for forcing Plaintiff and Class
10 Members to sign employment-related contracts and documents that contained unlawful terms of
11 employment, including invalid meal period waivers resulting from a noncompliant meal period
12 policy and/or practice.

13 **ELEVENTH CAUSE OF ACTION**

14 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF**

15 California Business and Professions Code section 17200, et seq.

16 **(Plaintiff Against All Defendants)**

17 96. Plaintiff incorporates by reference in this cause of action each allegation of the
18 preceding paragraphs as though fully set forth herein.

19 97. Defendant on certain occasions knowingly committed, and upon information and belief
20 continue to commit, ongoing unlawful business practices within the meaning of the UCL,
21 including, but not limited to unlawful practices as described in the causes of action articulated
22 above, and hereby incorporated herein.

23 98. Plaintiff lost money and property as a result of Defendant's unlawful business practices
24 described above.

25 99. Pursuant to the UCL, Plaintiff and all Class Members are entitled to restitution of
26 money or property acquired by Defendant by means of such unlawful business practices, in
27 amounts not yet known, but to be ascertained at trial.
28

1 100. Pursuant to the UCL, Plaintiff and Class Members are entitled to injunctive relief
2 against Defendant's ongoing unlawful business practices. If an injunction does not issue enjoining
3 Defendant from engaging in the unlawful business practices described above, Plaintiff and the
4 general public will be irreparably injured.

5 101. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined
6 by this Court, will continue to engage in the unlawful business practices described above in
7 violation of the UCL, in derogation of the rights of Plaintiff and Class Members and of the general
8 public.

9 102. Plaintiff's success in this action will result in the enforcement of important rights
10 affecting the public interest by conferring a significant benefit upon the general public.

11 103. Defendant's numerous violations of local and California law, as well as the other
12 statutory and regulatory violations alleged herein, constitute unlawful business actions and
13 practices in violation of Business and Professions Code § 17200, et seq.

14 104. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff and the Class
15 Members are entitled to restitution of unpaid wages and penalty pay, among other relief alleged
16 herein, that were withheld and retained by Defendant during a period that commences four years
17 prior to the filing of this action. Plaintiff is further entitled to a permanent injunction requiring
18 Defendant to comply with all provisions of California labor law, including properly paying the
19 lawful rate of pay for all hours worked, providing rest periods to all workers as defined herein,
20 timely paying due wages upon termination, maintaining accurate wages statements and payroll
21 records, in addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure
22 § 1021.5 and other applicable law, and costs.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

TWELVTH CAUSE OF ACTION
STATUTORY PENALTIES PURSUANT TO
PRIVATE ATTORNEYS GENERAL ACT

Cal. Labor Code section 2698, et seq.

(Plaintiff Against All Defendants)

105. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

106. Defendant has violated the California Labor Code by (1) failing to pay for all hours worked, including overtime hours worked (§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558, 1194, 1197, 1197.1, 1198); (2) failing to pay overtime wages (§218, 510 et. seq., 1194); (3) failing to pay all wages owed twice per month (§204, 210); (4) failing to pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199); (5) failing to provide rest breaks (§226, 226.7, 512, 558, 1198); (6) failing to provide proper cool-down rest periods (§226.7, 1198); (7) failing to provide uninterrupted meal breaks (§226, 226.7, 512, 558, 1198); (8) failing to reimburse for required business expenses (§1198, 2802); (9) failing to pay wages due upon termination (§201, 202, 203, 256); (10) failing to provide accurate itemized wage statements and violating record keeping requirements (§226, 1174, 1174.5); (11) failure to properly calculate and pay sick leave wages (Cal. Labor Code §246); (12) failure to provide safe working conditions (§1198, Wage Orders); and (13) failure to provide a place of employment that is safe and healthful (§6400, 6401, 6402, 6403, 6404, 6407).

107. Under the Private Attorneys General Act of 2006, Labor Code §§2698-2699.5, an aggrieved employee, on behalf of himself and other current or former employees, may recover penalties under any provision of the Labor Code that provides for civil penalties. These penalties are in addition to any other relief available under the Labor Code. Plaintiff is an aggrieved employee under PAGA.

108. As set forth above, Defendants have committed numerous violations for which the Labor Code provides for penalties, including violations of all applicable Labor Code provisions set forth in the foregoing causes of action. Labor Code §2699.5 identifies the aforementioned

1 Labor Code provisions as statutes to which §2699.3's procedural requirements must be met before
2 a penalty may be assessed under §2699(f). Plaintiff has complied with the procedural requirements
3 specified in §2699.3 by providing written notice to the Defendants and the Labor & Workforce
4 Development Agency ("LWDA"). See **Exhibit 1** attached hereto, which is a true and correct copy
5 of the Notice correspondence showing compliance with §2699.3. No notice of intent to investigate
6 the alleged violations was provided within the statutory period. Consequently, Plaintiff has
7 exhausted administrative remedies, and on behalf of themselves and all other aggrieved current
8 and former employees of Defendants. Plaintiff, therefore, now pursues this cause of action as
9 permitted by §2698, et seq.

10 109. Enforcement of statutory provisions enacted to protect workers and to ensure proper
11 and prompt payment of wages due to employees is a fundamental public interest in California.
12 Consequently, Plaintiff's success in this action will result in the enforcement of important rights
13 affecting the public interest and will confer a significant benefit upon the general public. Private
14 enforcement of the rights enumerated herein is necessary, as no public agency has pursued
15 enforcement. Plaintiff is incurring a financial burden in pursuing this action and it would be against
16 the interests of justice to require payment of attorneys' fees and costs from any recover that might
17 be obtained herein, pursuant to, inter alia, Labor Code §§2698, et seq., and Code of Civil Procedure
18 §1021.5

19 110. In addition, if Plaintiff succeeds in enforcing these rights affecting the public interest,
20 then attorneys' fees may be awarded to Plaintiff and against Defendants under Code of Civil
21 Procedure §1021.5 and other applicable law in part, because:

- 22 a. A successful outcome in this action will result in the enforcement of important
23 rights affecting the public interest by requiring Defendants to comply with the wage and
24 hour laws and California's unfair business practice law;
- 25 b. This action will result in a significant benefit to Plaintiff, the Class, and the general
26 public by bringing to a halt unlawful and/or unfair activity;
- 27
28

1 c. Unless this action is prosecuted, members of the Class and general public will not
2 recover those moneys, and many of Defendants' employees would not be aware that the
3 acts and practices they were subjected to by Defendants were wrongful; and

4 d. Unless this action is prosecuted, Defendants will continue to mislead their
5 employees about the true nature of their rights and remedies under the wage and hour laws;

6 106. An award of attorneys' fees and costs is necessary for the prosecution of this action
7 and will result in a benefit to Plaintiff, the Class, aggrieved employees, and to consumers in
8 general, by preventing Defendants from continuing to circumvent the wage and hour statutes and
9 frustrate the long-standing recognition by the California legislature and the courts that such
10 statutes, as pled herein, are not merely a matter of private concern between employer and employee
11 to be eviscerated by considerations of waiver, contributory negligence, good or bad faith, and
12 private agreements. Rather, the wage and hour statutes have been described as a matter of public
13 concern, were designed to provide minimum substantive guarantees to individual workers and are
14 essential to public welfare.

15 **REQUEST FOR RELIEF**

16 WHEREFORE, Plaintiff, on behalf of himself and the Proposed Class, request judgment
17 and the following specific relief against Defendant as follows:

- 18 A. That the Court determine that this action may be maintained as a class action
19 under Code of Civil Procedure § 382;
- 20 B. That the Court determine that this action may be maintained as a PAGA
21 representative action under Cal. Labor Code. §2698 *et seq.*;
- 22 C. Provision of class notice to all members of the Class;
- 23 D. That Defendant is found to have violated the above-referenced provisions of the
24 Labor Code, CCR and the IWC Wage Order as to Plaintiff, Class Members,
25 relevant subclass Members, and aggrieved employees;
- 26 E. For compensatory damages, in an amount according to proof at trial, with
27 interest thereon;
- 28 F. For compensation for not being paid overtime;

- 1 G. For restitution for not being paid all sick leave wages owed;
- 2 H. For compensation for not being paid all wages owed twice per month;
- 3 I. For compensation for not being paid minimum wage;
- 4 J. For compensation for not being provided rest breaks;
- 5 K. For compensation for not being provided cool-down rest periods;
- 6 L. For compensation for not being provided uninterrupted meal breaks;
- 7 M. For compensation for not being reimbursed for required business expenses;
- 8 N. For compensation for not being paid all wages due upon termination;
- 9 O. For compensation for not being paid penalty and premium wages;
- 10 P. That Defendant's actions are found to be willful and/or in bad faith to the extent
- 11 necessary under §§ 201, 202, 203, and 558 of the California Labor Code for
- 12 willful failure to pay all compensation owed at the time of separation to Plaintiff
- 13 and Class Members no longer employed by Defendant;
- 14 Q. That Plaintiff, Class Members, and aggrieved employees receive penalties for
- 15 Defendant's violation of §226, 1174, and 2698 of the California Labor Code for
- 16 willful failure to provide and maintain the required accurate and itemized wage
- 17 statements;
- 18 R. That Plaintiff and Class Members receive an award in the amount of unpaid
- 19 wages owed, including interest thereon, and penalties as provided in the Labor
- 20 Code, CCR and Wage Order, including under Labor Code §§ 203, 510, and
- 21 558, subject to proof at trial;
- 22 S. That Plaintiff and Class Members receive damages pursuant to §248.5 in
- 23 addition to reasonable attorneys' fees, and costs of suit pursuant to Labor Code
- 24 § 218.5, 2698 et seq., and CCP 1021.5;
- 25 T. That Defendant be ordered to pay restitution to Plaintiff and Class Members for
- 26 amounts acquired through Defendant's unlawful activities pursuant to Business
- 27 and Professions Code §§ 17200-05 and enjoined to cease and desist from
- 28

unlawful and unfair activities in violation of California Business and Professions Code § 17200 et. seq.;

U. That Plaintiff, Class Members, and aggrieved employees receive an award of reasonable attorneys' fees and costs pursuant to Code of Civil Procedure §1021.5, Labor Code §226, 218.5, 1194, 2698 and/or applicable laws;

V. That the Court award penalties pursuant to Labor Code §2698 *et seq.*

W. That the Court issue declaratory relief that Defendant's challenged policies are unlawful; and

X. That the Court order further relief, in law and equity, as it deems appropriate and just.

DATED: November 8, 2024

KOUL LAW FIRM, APC



BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff SALVATORE
QUINTANILLA and putative class
members

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

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3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

April 19, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Procter & Gamble Distributing LLC
One Procter & Gamble Plaza
Cincinnati, OH 45202-0000

Procter & Gamble Distributing LLC
c/o CT Corporation System
330 N. Brand Blvd.
Glendale, CA 91203

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Salvatore Quintanilla
Employer: Procter & Gamble Distributing LLC

Dear Sir or Madam:

Claimant and aggrieved employee Salvatore Quintanilla has retained Nazo Koulloukian, Esq. of Koul Law Firm, APC, to represent him, and all other aggrieved employees in California, for wage and hour claims against his former employer, Procter & Gamble Distributing LLC, (hereafter referred to as “Employer”). Employer hired, assigned, and paid Claimant to work at its Moreno Valley, California, location. Mr. Quintanilla worked for Employer until August 24, 2023.

Employer violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Labor Code § 2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimants to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code § 2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Labor Code § 2699.3. Based on

information and belief, Employer continues to commit all the violations alleged herein.

Claimant alleges herein the specific provisions of California law that Employer has violated, requiring this Notice, including but not limited to: California Labor Code sections 201-203, 204, 208, 210, 216, 221-223, 226, 226.2, 226.7, 227, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, additional code sections cited below herein, and all applicable Wage Orders.

As alleged below, Claimant personally suffered some of the Labor Code violations committed by Employer, while other violations, though not personally suffered by her, were suffered by other Aggrieved Employees. As held in *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, "[b]y the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Claimants need not have actually suffered all of the Labor Code violations that they alleges to have taken place for purposes of seeking PAGA penalties." (citation omitted). Accordingly, Claimant plans to pursue penalties for all the violations committed by Employer against the Aggrieved Employees, including those he may not have personally suffered.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

Cal. Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, Wage Orders

The Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an including all the time the employee is suffered or permitted to work, whether or not required to do so." Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period.

Claimant and 200-250 other aggrieved employees came on shift at the same time, disbursed between only a handful of time clocks. This resulted in wait times at the time clocks before each shift of a minimum of 5 minutes. Because Claimant and his coworkers worked overtime almost every shift, with Claimant's usual shift being 10 hours, this wait time resulted in underpaid overtime. Employees were also sometimes interrupted during unpaid meal periods, resulting in additional off the clock work. Furthermore, if Claimant or aggrieved employees were required to complete a task before being allowed to take a meal period, the time clock entry would be modified to appear as if a timely meal period was taken, resulting in a short meal period and unpaid hours worked.

Employer's conduct described herein violates Labor Code §§ 200, 223, 226, 500, 1197 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5, 226,

558, 1194 and 1194.2, Claimant and other Aggrieved Employees are entitled to recover damages for the nonpayment of wages of all their worked hours in addition to penalties, attorneys' fees, expenses, and costs of suit. As a result of these ongoing violations, Employer is liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

Improper Calculation of Overtime Rate – Failure to Pay Overtime Wages

Cal. Lab. Code §§218, 510 *et. seq.*, 1194, 2698 *et seq*

Employer pays nondiscretionary bonuses to its hourly, non-exempt employees. It is well established that nondiscretionary bonuses, such as the bonuses at issue, retroactively increase the employee's "regular rate" of pay for purposes of calculating overtime. (Labor Code §207) The "regular rate" is calculated by dividing the hours worked in a week by all the compensation earned for that week. When an employee is later paid a bonus that is partly due to work performed in that week, this additional pay must be added into the total compensation for the week, increasing the employee's regular rate of pay. (*Marin v. Costco Wholesale Corp.* (2008) 169 CA4th 804, 807.)

Employer paid bonuses, including a nondiscretionary bonus Claimant recalls being termed "LMS" which was a payment based upon productivity. This bonus was not incorporated into aggrieved employees' regular rate of pay for purposes of calculating overtime, sick pay, or premium pay.

Employer has failed to properly calculate and pay overtime compensation. Claimant and other employees have been denied "the unpaid balance of the full amount of this... overtime compensation" as required by Cal. Labor Code. §1194, and Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et seq.* Additionally, Employer has violated Cal. Labor Code §218 and §510 and applicable Industrial Welfare Commission Wage Orders at sections (3)(A)(1) for failure to pay overtime. Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and 2698 *et seq.*

Failure to Properly Calculate and Pay Sick Leave Wages

Cal. Labor Code §§246, 2698 *et seq*

Employers must calculate paid sick leave for non-exempt employees in one of two ways:

- (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek; [or]
- (2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay

periods of the prior 90 days of employment.

Labor Code § 246 (l)

Employer paid bonuses, including a nondiscretionary bonus Claimant recalls being termed “LMS” which was a payment based upon productivity. This bonus was not incorporated into aggrieved employees’ regular rate of pay for purposes of calculating overtime, sick pay, or premium pay. Claimant and aggrieved employees were paid sick leave wages at their base hourly rates of pay, which is less than required under either of the two alternative methods of calculation provided by Labor Code section 246(l).

Failure to Pay All Wages Owed Twice Per Month

Cal. Lab. Code §§204, 210, and 2698 *et seq.*

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, aggrieved employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employer is liable under Labor Code §210 for failure to pay wages as required by law.

Failure to Pay Minimum Wage

Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*

Pursuant to Labor Code §§ 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the Applicable Wage Orders. Pursuant to the Applicable Wage Orders “hours worked” include “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

During the applicable recovery period, Claimant and aggrieved employees were suffered, permitted, and required to perform work by Employer for which they received no pay. The aforementioned acts by Employer were undertaken with the intention of depriving aggrieved employees of their earned wages. As a result of these ongoing violations, Employer is liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

Failure to Provide Rest Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law. Claimant reports receiving late rest breaks on many occasions because Claimant and aggrieved employees were required to complete certain tasks and fulfill orders in progress before taking breaks.

Employer did not authorize or permit all of its hourly employees to take at least a ten minute timely rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks were missed Employer failed to pay the 1-hour premium pay, as required. Because Employer violated the Wage Order, Employer is liable to Claimant and aggrieved employees under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Proper Cool-Down Rest Periods

Cal. Labor Code §§ 226.7, 1198, 2698 *et seq.*

Labor Code section 226.7, subdivision (c) provides:

If an employer fails to provide an employee a... recovery period in accordance with a state, law, including, but not limited to an applicable statute or applicable regulation, standard, or order of the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Employees were not provided with sufficient cool-down recovery periods when the workplace would get excessively hot. For example, Claimant describes that in the summer temperatures would soar to 105 degrees. During these hot days in Moreno Valley, conditions would become unbearable. When Claimant asked for air conditioning, he was told by his manager that the air conditioning was not for the employees, it was to keep merchandise cool, and was only located in areas where the merchandise required a cooler environment.

On these hot days, aggrieved employees did not receive sufficient cool down rest periods because Employer discouraged employees from taking cool-down rest breaks. Employers who fail to provide required recovery periods are liable for damages under Labor Code 226.7.

When breaks were missed, late, or noncompliant, Employer failed to pay the 1-hour premium, as required. Claimant's wage statements do not show any rest period premium pay. Because Employer violated the Wage Order, Employer is liable to Claimant and aggrieved employees under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Employer failed to provide all of its hourly employees with their right to take a timely off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Claimant and aggrieved employees often experienced late, short, and/or interrupted meal periods, or their meal periods were missed altogether. Employer required Claimant and aggrieved employees to complete tasks, such as filling big orders, before taking meal breaks, resulting in late and short meal breaks. Additionally, when meal breaks were late, Employer would modify the time records so they would show a facially compliant meal break, which is unlawful. Making matters worse, aggrieved employees regularly worked shifts exceeding 10 hours and were therefore required to have a second meal period. Employer required employees to sign a second meal period waiver, but such waivers are only effective when the first meal break was compliant, resulting in additional meal period violations.

Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy. Employees were not paid a premium payment, paid as an hour's wage when meal periods were not given to them in compliance with California law. Accordingly, Employer is liable to Claimant and aggrieved employees for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Reimburse For Required Business Expenses

Cal. Labor Code §§1198, 2802, 2699 *et seq.*

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Claimant and aggrieved employees were required to purchase boots and special apparel to complete their jobs. Employer provided a modest shoe allowance which was not sufficient to reimburse its low-wage employees for the cost of the shoes and required apparel. Employer failed to reimburse employees for these necessary business expenses and is therefore liable to Claimant and aggrieved employees for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Pay Wages Due Upon Termination

Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated.

Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimants and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Safe Working Conditions – Excessive Heat

Cal. Labor Code §1198, Wage Orders

Employer's workplaces would get unsafely hot. As explained above, Claimant and aggrieved employees were forced to work in incredibly hot workspaces, with air conditioning only provided when the merchandise required it. Claimant and aggrieved employees worked in unbearable heat.

The Wage Orders require:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

By violating the wage order, and therefore Labor Code §1198, Employer is liable for civil penalties pursuant to §2698 *et seq.*

Failure to Provide Place Of Employment That Is Safe And Healthful

Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2699 *et seq.*

Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401 provides that “every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Pursuant to Cal. Labor Code §6402, no employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe, or to adopt and use methods and processes reasonably adequate to render the employment and place of employment safe, or to do every other thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment that is not safe and healthful. Cal. Labor Code § 6407 provides that every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

Employer employed their employees under unsafe conditions due to excessive heat as described above. As a result of the practices described herein, Employer violated Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for aggrieved employees and is liable for civil penalties pursuant to Cal. Labor Code §2699 *et seq.*

Failure to Provide Accurate Itemized Wage Statements & Violation of Record-Keeping Requirements

(Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d).

The statements provided to Claimants and aggrieved employees, and the records maintained by Employer, do not state the correct legal name of the employer. Claimant’s wage statements list “P&G Distributing LLC” as the employer. However, an entity named “P&G Distributing LLC” is not listed as a legal entity on the California Secretary of State website and a

DBA search did not list any entity doing business as “P&G Distributing LLC.” Employer’s legal name is Procter & Gamble Distributing LLC.

In addition to the facial wage statement violation appearing on every wage statement, derivative of the claims above, wage statements issued to Claimant and aggrieved employees have not accurately reflected actual gross wages earned, including pay for all hours worked and the accurate rate of pay for all hours worked, and overtime pay, and pay for meal and rest period premium wages.

§226 (a) requires:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Such failures called injury to Claimant and others, by, among other things, impeding them from knowing the true legal name of their employer, the total hours worked, and the amount of wages to which they are and were entitled. Employer knowingly and intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours worked. Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment-related contracts and documents that contained unlawful terms of

employment, including invalid meal period waivers resulting from a noncompliant meal period policy and/or practice.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform him if it does not intend to investigate these violations so that he may pursue his claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', written over a horizontal line.

Nazo Koulloukian, Esq.
Attorney for Claimant

PROOF OF SERVICE

Case No. CVRI2402644

Quintanilla v. Procter & Gamble Distributing, LLC

I, NADIA CHAVEZ declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the entitled case. The name and address of my residence or business is KOUL LAW FIRM, 3435 Wilshire Blvd. Ste. 1710, Los Angeles, California 90010.

On November 21, 2024, I served the foregoing document described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

 X

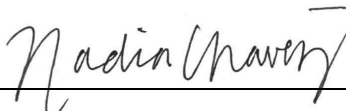
BY E-MAIL: I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address from e-mail nadia@koullaw.com pursuant to California Rules of Court. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

Joshua Daniel Levine
Desi Kalcheva
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San Diego, CA 92101
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this November 21, 2024, in Los Angeles, California.



NADIA CHAVEZ