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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SAN DIEGO**

14 LORENA GUTIERREZ, an individual, for the
15 real party in interest, the State of California,

16 Plaintiff,

17 vs.

18 WAXIES ENTERPRISES LLC; and DOES 1
19 through 50,

20 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/24/2024 at 09:01:18 PM

Clerk of the Superior Court
By Mariejo Guyot, Deputy Clerk

Case No. 37-2024-00029531-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiff LORENA GUTIERREZ (“Plaintiff”), in her capacity as the State of California’s
2 designated proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current
3 and former California non-exempt employees alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the PAGA, incorporated in Labor Code sections 2698, 2699 *et seq.*,
6 Plaintiff brings this representative action against Defendants WAXIES ENTERPRISES LLC
7 (“WAXIES”) and DOES 1 through 50 (all defendants are hereinafter collectively referred to as
8 “Defendants”) for wage and hour violations of the California Labor Code and the applicable Industrial
9 Welfare Commission Wage Order (the “IWC Wage Order”).

10 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
11 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
12 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
13 for violation of the code may, as an alternative, be recovered through a civil action brought by an
14 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
15 to the procedures specified in Labor Code section 2699.3.

16 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
17 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

18 **JURISDICTION AND VENUE**

19 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
20 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
21 because Plaintiff alleges claims arising under California law.

22 5. This Court has jurisdiction over Defendants because each is believed to be an
23 association, corporation, business entity, or individual that conducts substantial business in the State
24 of California, County of San Diego.

25 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

26 7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the
27 Superior Court of California for the County of San Diego because this is where some of the wrongful
28 misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Defendants are a sanitary supply company operating throughout the United States.

10. Plaintiff worked for, and was employed by Defendants in California from 2023 until 2024.

11. Plaintiff worked as an Accounts Payable Specialist for Defendants during which time she was paid hourly and considered non-exempt.

12. Pursuant to Labor Code section 2699(c), Plaintiff is an “aggrieved employee” because she was employed by Defendants and had one or more of the alleged violations committed against her, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against current and former employees, who are also aggrieved employees.

13. Plaintiff brings this action on behalf of Defendants’ current and former non-exempt California employees who worked for Defendants from April 16, 2023 until trial (“Representative Employees”) that suffered from any one of the alleged violations in this Complaint. (*Huff v. Securitas Sec. Servs. USA, Inc.* (2018) 23 Cal.App.5th 745, 753 [“An Employee Affected By at Least One Labor Code Violation May Pursue Penalties on Behalf of the State for Unrelated Violations By the Same Employer.”].)

14. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

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1 15. Plaintiff is informed and believes, and based thereon alleges, that at all times, each
2 Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the
3 other defendants and each were co-conspirators with respect to the acts and the wrongful conduct
4 alleged herein so that each is responsible for the acts of the other in connection with the conspiracy
5 and in proximate connection with the other defendants.

6 16. At all material times, Defendants were and/or are employers or persons acting on
7 behalf of employers, under California law, the IWC Wage Order, and the Labor Code, including Labor
8 Code sections 558 and 558.1 and thus are jointly and severally liable for the violations alleged herein
9 and any amounts awarded and/or recoverable as a result of this action.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 17. On April 16, 2024, Plaintiff, via counsel, provided the statutorily required notice to the
12 LWDA (“PAGA Notice”), indicating that Plaintiff intends to pursue claims against Defendants for
13 violations of the Labor Code under the PAGA.

14 18. On April 16, 2024, Plaintiff, via counsel, sent a copy of the PAGA Notice to Defendant
15 WAXIES.

16 19. The statutory period expired since Plaintiff provided the PAGA Notice to the LWDA
17 and the LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the
18 applicable penalty claims and did not provide notice as set forth in Labor Code section
19 2699.3(a)(2)(A). As such, Plaintiff has exhausted the administrative requirements under the PAGA.

20 **PAGA REPRESENTATIVE ACTION CLAIMS**

21 20. California law provides that an aggrieved employee may file a representative action
22 under the PAGA against an employer for violations of the Labor Code and Wage Order.

23 21. As alleged below, current and former non-exempt employees of Defendants in
24 California, including Plaintiff, were subject to systemic and company-wide wage and hour violations
25 by Defendants, specifically by Defendants’ violation of Labor Code sections 201, 202, 203, 204, 226,
26 226(a), 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(6), 226(a)(9), 226.7, 226.7(a), 226.7(b), 226.7(c), 246,
27 246(l), 510, 512, 1194, 1197, and 1198.

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1 **FIRST CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
3 **Sections 246 and 246(l) against all Defendants)**

4 22. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 23. Under Labor Code sections 246, 246(a), 246(b), and 246(c) employers in California
7 must provide employees with paid sick leave.

8 24. Under Labor Code sections 246 and 246(l), employers in California must provide
9 employees with paid sick leave to be paid at a specified rate of pay which must factor in additional
10 earnings during a given pay period wherein such leave is used.

11 25. During their employment, Plaintiff and Representative Employees earned additional
12 nondiscretionary compensation, including but not limited to bonuses.

13 26. Defendants failed to pay Plaintiff and Representative Employees all sick leave wages
14 in accordance with Labor Code section 246(l) because Defendants have a systemic company-wide
15 payroll deficiency that resulted in the issuance of sick leave to all Representative Employees in
16 California at an incorrect rate of pay.

17 27. Defendants systemically and categorically failed to include all compensation earned
18 (e.g., bonuses) during a given period when determining the appropriate rate of pay for sick leave
19 wages as required by Labor Code sections 246 and 246(l), resulting in the underpayment of wages.

20 28. During Plaintiff's employment, Defendants issued sick leave to Plaintiff at her base
21 rate of pay rather than her higher blended rate of pay.

22 29. Defendants' failure to issue sick leave at the rate mandated by Labor Code section
23 246(l) appears to be systemic and company-wide in California, thereby resulting in the underpayment
24 of wages to Plaintiff and Representative Employees.

25 30. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
26 Labor Code sections 246 and 246(l).

27 31. Aggrieved Employees are permitted to use the PAGA to enforce California's Healthy
28 Workplaces Healthy Families Act. (*Wood v. Kaiser Found. Hosps.* (2023) 88 Cal.App.5th 742, 748.)

32. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

33. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

34. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown according to proof.

35. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SECOND CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 512 and 226.7(b) against all Defendants)**

36. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

37. Under Labor Code section 512, an employer must provide a meal period of at least thirty minutes if the employee works more than five hours. California Labor Code section 512 “requires a first meal period no later than the end of an employee’s fifth hour of work [...]” (*Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

38. Labor Code section 226.7(b) prohibits an employer from requiring an employee to work during a meal or rest period.

39. Upon information and belief, Defendants did not always relieve Plaintiff and Representative Employees for compliant meal periods under California law. This was due, in part, to the demanding nature of the work, understaffing, and the time sensitivity of assigned tasks, duties, and obligations during working hours.

1 40. Plaintiff was required to meet Defendants' strict quotas and deadlines, and as a result,
2 Defendants failed to relieve Plaintiff of her duties such that she could take compliant meal breaks.

3 41. Defendants' time records for Plaintiff reflect numerous noncompliant meal periods. In
4 a meal period case, an employer's "[t]ime records showing noncompliant meal periods raise a
5 rebuttable presumption of meal period violations." (*Donohue v. AMN Services, LLC* (2021) 11 Cal.5th
6 58, 61.)

7 42. Defendants' failure to relieve Plaintiff for meal periods is a systemic company-wide
8 practice that affected Representative Employees in California.

9 43. During all times relevant to this action, Defendants failed to provide Plaintiff and
10 Representative Employees with compliant meal periods in violation of Labor Code sections 512,
11 226.7(b), and the IWC Wage Order.

12 44. Defendants failed to issue meal premiums at the regular rate of pay in violation of
13 Labor Code section 226.7(c).

14 45. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
15 Labor Code sections 512, 226.7(b), 226.7(c), and the IWC Wage Order.

16 46. Labor Code section 558 imposes upon Defendants, and each of them, civil penalties of
17 fifty dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred
18 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

19 47. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
20 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
21 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
22 all Labor Code provisions for which a civil penalty is not specifically provided.

23 48. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
24 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
25 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

26 49. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
27 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
28 according to proof.

1 **THIRD CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226.7(b) against all Defendants)**

4 50. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 51. Rest periods under California labor law and the relevant Wage Order are required for
7 non-exempt employees who work three and a half (3 1/2) or more hours in a day. Employees are
8 entitled to ten (10) minutes of rest period for each four (4) hours, or a substantial fraction thereof, that
9 they work in a day.

10 52. Labor Code section 226.7(b) prohibits an employer to require an employee to work
11 during a rest period and provides that an employee must be paid a wage for doing so.

12 53. Upon information and belief, Defendants failed to provide Plaintiff and Representative
13 Employees with proper rest periods in violation of Labor Code section 226.7(b) and the IWC Wage
14 Order.

15 54. Defendants did not always relieve Plaintiff and Representative Employees for
16 compliant rest periods under California law. This was due, in part, to the demanding nature of the
17 work, understaffing, and the time sensitivity of assigned tasks, duties, and obligations during working
18 hours.

19 55. Plaintiff was required to meet Defendants' strict quotas and deadlines, and as a result,
20 Defendants failed to relieve Plaintiff of her duties such that she could take compliant rest breaks.

21 56. Defendants' time records for Plaintiff do not reflect any rest periods taken, or
22 certifications and/or attestations that Plaintiff had a timely opportunity to take the rest periods she was
23 entitled to during her shifts.

24 57. Defendants' failure to relieve Plaintiff for rest periods is a systemic company-wide
25 practice that affected Representative Employees in California.

26 58. Defendants failed to provide Plaintiff and Representative Employees with proper rest
27 periods in violation of Labor Code section 226.7(b) and the IWC Wage Order.

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59. Defendants failed to issue rest premiums at the regular rate of pay in violation of Labor Code section 226.7(c).

60. The PAGA imposes upon Defendants, and each of them, civil penalties for violating the rest break provision in Labor Code section 226.7(b) and the IWC Wage Order.

61. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

62. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

63. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 510 and 1198 against all Defendants)**

64. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

65. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order.)

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1 66. Defendants failed to provide Plaintiff and Representative Employees with overtime
2 pay at the regular rate of pay. By way of one example, Defendants failed to include all compensation
3 earned (e.g., bonuses) during a given period when determining the regular rate of pay, resulting in the
4 underpayment of wages.

5 67. Defendants' failure to compensate Plaintiff for overtime at the mandated regular rate
6 of pay is a systemic company-wide issue that affected Representative Employees in California.

7 68. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
8 Labor Code sections 510, 1198, and the IWC Wage Order.

9 69. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
10 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
11 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
12 all Labor Code provisions for which a civil penalty is not specifically provided.

13 70. Pursuant to Labor Code section 558, any employer or other person acting on behalf of
14 an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision
15 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
16 to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them,
17 penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations,
18 and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

19 71. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
20 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
21 amount to be shown according to proof.

22 72. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
23 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
24 according to proof.

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1 **FIFTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
3 **Section 1197 against all Defendants)**

4 73. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 74. Under Labor Code section 1197, an employer is required to pay its employees the
7 proper minimum wages for all hours worked.

8 75. Defendants failed to properly provide minimum wages for all hours worked.
9 Defendants' employees would work many hours without getting compensated for the hours worked
10 and/or not paid the correct minimum wages for all hours worked in violation of Labor Code section
11 1197.

12 76. Defendants' failure to compensate its employees for working off-the-clock is a
13 systemic company-wide issue that affected Representative Employees in California.

14 77. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
15 Labor Code section 1197.

16 78. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
17 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
18 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
19 all Labor Code provisions for which a civil penalty is not specifically provided.

20 79. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
21 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
22 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

23 80. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
24 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
25 according to proof.

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1 **SIXTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226(a)(1) against all Defendants)**

4 81. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 82. Labor Code section 226(a)(1) requires wage statements that an employer issues to its
7 employees accurately state the gross wages earned.

8 83. Defendants failed to accurately state the gross wages on the wage statements it issued
9 to Plaintiff and Representative Employees in violation of Labor Code section 226(a)(1). By way of
10 one example, the wage statements Defendants issued to Plaintiff failed to include the accurate amount
11 of gross wages, including, but not limited to, sick pay wages, overtime wages, and meal/rest premium
12 wages.

13 84. Because Defendants' payroll practices in California are uniform, Defendants' failure
14 to furnish accurate itemized wage statements to Plaintiff is a systemic company-wide issue that
15 affected Representative Employees in California.

16 85. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
17 Labor Code section 226(a)(1).

18 86. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
19 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
20 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
21 all Labor Code provisions for which a civil penalty is not specifically provided.

22 87. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
23 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
24 PAGA in an amount to be shown according to proof.

25 88. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
26 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
27 according to proof.

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1 **SEVENTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226(a)(5) against all Defendants)**

4 89. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 90. Labor Code section 226(a)(5) requires wage statements that an employer issues to its
7 employees accurately state the net wages earned.

8 91. Defendants failed to accurately state the net wages on the wage statements it issued to
9 Plaintiff and Representative Employees in violation of Labor Code section 226(a)(5). By way of one
10 example, the wage statements Defendants issued to Plaintiff failed to include the accurate amount of
11 net wages, including, but not limited to, sick pay wages, overtime wages, and meal/rest premium
12 wages.

13 92. Because Defendants' payroll practices in California are uniform, Defendants' failure
14 to furnish accurate itemized wage statements to Plaintiff is a systemic company-wide issue that
15 affected Representative Employees in California.

16 93. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
17 Labor Code section 226(a)(5).

18 94. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
19 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
20 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
21 all Labor Code provisions for which a civil penalty is not specifically provided.

22 95. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
23 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
24 PAGA in an amount to be shown according to proof.

25 96. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
26 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
27 according to proof.

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1 **EIGHTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226(a)(9) against all Defendants)**

4 97. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 98. Labor Code section 226(a)(9) requires wage statements that an employer issues its
7 employees to accurately state all applicable hourly rates in effect during the pay period and the
8 corresponding number of hours worked at each hourly rate by the employee.

9 99. Defendants failed to provide Plaintiff and Representative Employees the applicable
10 hourly rates in effect during the pay period and the corresponding number of hours worked at each
11 hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of one example,
12 the rates/hours for sick pay, overtime, and meal/rest breaks are inaccurately itemized on the wage
13 statements Defendants issued.

14 100. Because Defendants' payroll practices in California are uniform, Defendants' failure
15 to furnish accurate itemized wage statements to Plaintiff is a systemic company-wide issue that
16 affected Representative Employees in California.

17 101. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
18 Labor Code section 226(a)(9).

19 102. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
20 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
21 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
22 all Labor Code provisions for which a civil penalty is not specifically provided.

23 103. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
24 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
25 PAGA in an amount to be shown according to proof.

26 104. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
27 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
28 according to proof.

1 **NINTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226(a) against all Defendants)**

4 105. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 106. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage
7 statement provided to an employee or a computer-generated record that accurately shows all of the
8 information required under 226(a)(1) through (a)(9).

9 107. Defendants failed to keep records required under Labor Code section 226(a). By way
10 of example, the copies of Plaintiff's payroll records that Defendants produced to Plaintiff do not
11 include the accurate gross and net wages, total hours worked, and applicable hourly rates and
12 corresponding hours worked.

13 108. Because Defendants' payroll practices in California are uniform, Defendants' failure
14 to maintain accurate itemized wage statements for Plaintiff is a systemic company-wide issue that
15 affected Representative Employees in California.

16 109. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
17 Labor Code section 226(a).

18 110. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
19 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
20 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
21 all Labor Code provisions for which a civil penalty is not specifically provided.

22 111. Plaintiff is seeking civil penalties against Defendants under Labor Code section
23 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
24 PAGA in an amount to be shown according to proof.

25 112. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
26 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
27 according to proof.

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129. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

130. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

131. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
3. Post-judgment interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

Dated: June 24, 2024

MASHIRI LAW FIRM APC

By: 
 Alex Asil Mashiri
 Attorney for Plaintiff
 Lorena Gutierrez