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individually and on behalf of all others
similarly situated and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE**

JENNIFER DODSON, individually and on behalf
of all others similarly situated and aggrieved,

Plaintiff,

vs.

AUTOMOBILE CLUB OF SOUTHERN
CALIFORNIA, a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
06/05/2024

By: Vanessa Minguella,
Deputy Clerk

Case No. VCU308283

*[Assigned for all purposes to Hon. Bret D.
Hillman, Dept. 2]*

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

- (1) VIOLATION OF CAL. LABOR CODE § 2802**
- (2) VIOLATION OF CAL. LABOR CODE §§ 1194, 1197, AND 1197.1**
- (3) VIOLATION OF CAL. LABOR CODE §§ 510 AND 1194**
- (4) VIOLATION OF CAL. LABOR CODE § 226**
- (5) VIOLATION OF CAL. BUS. & PROF. CODE § 17200, *ET SEQ.***
- (6) PENALTIES UNDER CAL. LABOR CODE §§ 2698, *ET SEQ.*, PRIVATE ATTORNEYS GENERAL ACT (“PAGA”)**

DEMAND OVER \$25,000

1 Plaintiff Jennifer Dodson (“Plaintiff”) hereby submits this First Amended Class and PAGA
2 Representative Action Complaint against Automobile Club of Southern California, a California
3 corporation (“Defendant” or “Company”), and Does 1-50 (hereinafter collectively referred to as
4 “Defendants”), individually and on behalf of a class of all other similarly situated current and former
5 employees of Defendants for failure to provide reimbursement for business expenses, failure to pay
6 minimum wages earned, failure to provide pay overtime wages earned, and penalties under the
7 California Labor Code, and penalties under the California Labor Code Private Attorneys General Act of
8 2004 (“PAGA”) and for restitution, as follows:

9 **INTRODUCTION**

10 1. This class and representative action is within the Court’s jurisdiction under California
11 Labor Code sections 226, 510, 1194, 1197, 1197.1, 2802, 2698 and the applicable Wage Orders of the
12 Industrial and Welfare Commission (the “IWC”).

13 2. This Complaint challenges systemic illegal employment practices resulting in violations
14 of the California Labor Code against Defendant’s employees.

15 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly and
16 severally have acted intentionally and with deliberate indifference and conscious disregard to the rights
17 of all employees by failing to reimburse employees for business expenses, failing to pay all minimum
18 wages owed, failing to pay all overtime wages owed, and failing to provide legally compliant wage
19 statements.

20 **JURISDICTION AND VENUE**

21 4. The Court has jurisdiction over the violations of California Labor Code sections 226,
22 510, 1194, 1197, 1197.1, 2802 and 2698, *et seq.*

23 5. Venue is proper in Tulare County because Plaintiff works for Defendant in the City of
24 Tulare, California.

25 **PARTIES**

26 6. In or around 2018, Plaintiff was hired by Defendant. She has been a non-exempt
27 employee throughout her employment with Defendant.
28

1 7. Plaintiff is informed and believes and based thereon alleges that Defendant was and is a
2 nonprofit corporation that provides insurance and automobile services throughout central and southern
3 California.

4 8. Plaintiff is informed and believes and based thereon alleges that at all times herein
5 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
6 partnerships, licensed to do business and actually doing business in the State of California.

7 9. As such, and based upon all the facts and circumstances incident to Defendants' business
8 in California, Defendants are subject to Labor Code sections 226, 510, 1194, 1197, 1197.1, 2802, 2698,
9 *et seq.* and the applicable Wage Orders.

10 10. Plaintiff does not know the true names or capacities, whether individual, partner or
11 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
12 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
13 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
14 alleges that each of said fictitious Defendants was responsible in some way for the matters alleged
15 herein and proximately caused Plaintiff, class members, and aggrieved employees to be subject to the
16 illegal employment practices, wrongs and injuries complained of herein.

17 11. At all times herein mentioned, each of said Defendants participated in the doing of the
18 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
19 and each of them, were the agents, servants, and employees of each of the other Defendants, as well as
20 the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope
21 of said agency and employment.

22 12. Plaintiff is informed and believes and based thereon alleges that at all times material
23 hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of,
24 or working in concert with each of the other co-Defendants and was acting within the course and scope
25 of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and
26 omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and
27 ratified said acts, conduct, and omissions of the acting Defendants.

13. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership, and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

14. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

CLASS ACTION ALLEGATIONS

15. **Definition:** The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure section 382, of the following class:

All current and former non-exempt employees of Defendant in the State of California at any time from April 19, 2020, through the present (the “Class.”)

16. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendant's records, including payroll records. Plaintiff is informed and believes and based thereon alleges that Defendant failed to provide all overtime wages owed in violation of California Labor Code sections 510 and 1194, failed to provide all minimum wages owed in violation of California Labor Code sections 1194, 1197, and 1197.1, failed to provide accurate and complete wage statements in violation of Labor Code section 226, and failed to reimburse business expenses in violation of California Labor Code section 2802.

17. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the class defined above. Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the class and individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California courts.

1 18. Defendant uniformly administered a corporate policy, practice of failing to provide
2 accurate and complete wage statements in violation of Labor Code section 226, failing to provide all
3 minimum wages owed in violation of Labor Code sections 1194, 1197, and 1197.1, failing to provide
4 all overtime wages owed in violation of Labor Code sections 510 and 1194, and failing to reimburse
5 business expenses in violation of Labor Code section 2802.

6 19. **Common Question of Law and Fact:** There are predominant common questions of
7 law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning
8 Defendant failing to provide accurate and complete wage statements in violation of Labor Code section
9 226, failing to provide minimum wages in violation of Labor Code sections 1194, 1197, and 1197.1,
10 failing to provide overtime wages in violation of Labor Code sections 510 and 1194, and failing to
11 provide timely payment of wages upon separation in violation of Labor Code section 2802.

12 20. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
13 Classes in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical manner
14 as the members of the Class. As with other exempt and non-exempt employees, Plaintiff was required
15 to use an application on her personal cell phone in order to log in to her work computer. Plaintiff did
16 not receive any reimbursement from Defendant for this use of her personal cell phone, in violation of
17 California Labor Code Section 2802. In addition, as a result of the time spent using the application to
18 log in, Plaintiff and the Class are owed unpaid minimum and overtime wages, in violation of Labor
19 Code Sections 510, 1194, 1197, and 1197.1. Further, as a result of the unpaid minimum and overtime
20 wages, Plaintiff received noncompliant wage statements in violation of Labor Code Section 226.

21 21. The California Labor Code and upon which Plaintiff bases these claims is broadly
22 remedial in nature. These laws and labor standards serve an important public interest in establishing
23 minimum working conditions and standards in California. These laws and labor standards protect the
24 average working employee from exploitation by employers who may seek to take advantage of superior
25 economic and bargaining power in setting onerous terms and conditions of employment.

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1 22. The nature of this action and the format of laws available to Plaintiff and members of the
2 Classes identified herein make the class action format a particularly efficient and appropriate procedure
3 to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the
4 corporate Defendants would necessarily gain an unconscionable advantage since it would be able to
5 exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior
6 financial and legal resources. Requiring each Class member to pursue an individual remedy would also
7 discourage the assertion of lawful claims by employees who would be disinclined to file an action
8 against their former and/or current employer for real and justifiable fear of retaliation and permanent
9 damage to their careers at subsequent employment.

10 23. The prosecution of separate actions by the individual class members, even if possible,
11 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
12 Class members against the Defendant and which would establish potentially incompatible standards of
13 conduct for the Defendant, and/or (b) adjudications with respect to individual Class members which
14 would, as a practical matter, be dispositive of the interest of the other Class members not parties to the
15 adjudications or which would substantially impair or impede the ability of the Class members to protect
16 their interests. Further, the claims of the individual members of the Class are not sufficiently large to
17 warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

18 24. Such a pattern, practice, and uniform administration of corporate policy regarding illegal
19 employee compensation described herein is unlawful and creates an entitlement to recovery by the
20 Plaintiff and the Classes identified herein of a common fund, including interest thereon, applicable
21 penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor
22 Code sections 218.5, 218.6, 226, 510, 1194, 1197, 1197.1 and Code of Civil Procedure section 1021.5.

23 25. Proof of a common business practice or factual pattern, which the named Plaintiff
24 experienced and are representative of, will establish the right of each of the members of the Class to
25 recovery on the causes of action alleged herein.

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1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 2802**

3 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

4 26. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
5 fully set forth herein.

6 27. Defendant, as a matter of policy and practice, did not provide reimbursements for
7 business expenses incurred by the Class.

8 28. Labor Code section 2802 requires that employers reimburse employees for business
9 expenses incurred in direct discharge of their duties.

10 29. Defendant required Plaintiff and the Class to use an application on their personal cell
11 phones to log in to their computers at work. Plaintiff and the Class did not receive any reimbursement
12 from Defendant for this use of their personal cell phones.

13 30. Such a pattern, practice and uniform administration of corporate policy as described
14 herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein,
15 in a civil action, for all damages or penalties pursuant to Labor Code section 2802, including interest
16 thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code section
17 2802.

18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE §§ 1194, 1197, AND 1197.1**

20 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

21 31. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
22 fully set forth herein.

23 32. This cause of action is brought pursuant to Labor Code sections 1194, 1197 and 1197.1,
24 which require an employer to pay employees minimum wages for all hours worked less than eight hours
25 in a day and/or less than 40 hours in a workweek.

26 33. As a pattern and practice, Defendant suffered and permitted Class Members to work
27 without payment of minimum wages for all hours worked in a workday and workweek. Specifically,
28 Defendant required Class Members to use an application on their personal cell phones in order to log in

1 to their computer at work. Class Members did not receive the payment of wages for such time.

2 34. Such a pattern, practice and uniform administration of corporate policy regarding illegal
3 employee compensation as described herein is unlawful and creates an entitlement to recovery by
4 Plaintiff, the Class in a civil action, for the unpaid balance of the full amount of damages owed,
5 including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of
6 California Labor Code sections 1194, 1197, and 1197.1.

7 **THIRD CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE §§ 510 AND 1194**

9 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

10 35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
11 fully set forth herein.

12 36. This cause of action is brought pursuant to Labor Code sections 510 and 1194, which
13 require an employer to pay employees overtime at a rate of one and one-half the employee's regular rate
14 of pay for any work in excess of eight hours in a workday or 40 hours in a workweek.

15 37. As a pattern and practice, Defendant suffered and permitted Class Members to work in
16 excess of eight hours in a workday and/or over 40 hours in a workweek without overtime pay.
17 Specifically, Defendant required Class Members to use an application on their personal phones to log in
18 to their computers at work. Class Members did not receive the payment of overtime wages for such
19 time.

20 38. Such a pattern, practice and uniform administration of corporate policy regarding illegal
21 employee compensation as described herein is unlawful and creates an entitlement to recovery by
22 Plaintiff, the Class in a civil action, for the unpaid balance of the full amount of damages owed,
23 including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of
24 California Labor Code sections 510 and 1194.

25 **FOURTH CAUSE OF ACTION**

26 **VIOLATION OF LABOR CODE § 226**

27 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

28 39. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though

1 fully set forth herein.

2 40. Defendant, as a matter of policy and practice, did not provide accurate records in
3 violation of Labor Code section 226(a) by failing to provide accurate payroll records to employees.

4 41. Here, Plaintiff and the Class were paid hourly. As such, the wage statements should have
5 reflected the applicable hourly rates of pay and gross and net wages earned, pursuant to Labor Code
6 section 226(a). However, the wage statements provided to Plaintiff and Class Members failed to identify
7 such information. More specifically, as a result of the aforementioned violations of the Labor Code the
8 wages statements identified incorrect wage rates and net and gross wages earned, in violation of Labor
9 Code section 226(a).

10 42. Such a pattern, practice and uniform administration of corporate policy as described
11 herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class in a civil action,
12 for all damages or penalties pursuant to Labor Code section 226, including interest thereon, attorneys'
13 fees, and costs of suit according to the mandate of California Labor Code section 226.

14 **FIFTH CAUSE OF ACTION**

15 **VIOLATIONS OF THE UCL, BUSINESS & PROFESSIONS CODE § 17200, *ET SEQ.***

16 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

17 43. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
18 fully set forth herein.

19 44. Defendants, and each of them, have engaged and continue to engage in unfair and
20 unlawful business practices in California by practicing, employing and utilizing the employment
21 practices outlined above, include, to wit, by: (1) failing to provide minimum wages in violation of Labor
22 Code §§ 1194, 1197, and 1197.1; (2) failing to provide overtime wages in violation of Labor Code §§
23 510 and 1194.

24 45. Defendants' utilization of such unfair and unlawful business practices constitutes unfair,
25 unlawful competition and provides an unfair advantage over Defendants' competitors.

26 46. Plaintiff seeks, individually and on behalf of other members of the Class similarly
27 situated, full restitution of monies, as necessary and according to proof, to restore any and all monies
28

1 withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of
2 herein.

3 47. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
4 mentioned Defendants have engaged in unlawful, deceptive, and unfair business practices, as proscribed
5 by California Business and Professions Code § 17200, *et seq.*, including those set forth herein above
6 thereby depriving Plaintiff and other members of the Class the minimum working condition standards
7 and conditions due to them under the California laws as specifically described therein.

8 **SIXTH CAUSE OF ACTION**

9 **REPRESENTATIVE ACTION FOR CIVIL PENALTIES UNDER PAGA,**

10 **LABOR CODE §§ 2698, ET SEQ.**

11 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

12 48. Plaintiff re-alleges and incorporates by reference the preceding paragraphs, except the
13 allegations concerning class action designation, as though fully set forth herein.

14 49. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code
15 § 2699(c), and a proper representative to bring a civil action on behalf of herself and other current and
16 former employees of Defendants pursuant to the procedures specified in California Labor Code
17 § 2699.3, because Plaintiff and Aggrieved Employees were employed by Defendants and the alleged
18 violations of the California Labor Code were committed against Plaintiff and Aggrieved Employees.

19 50. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code
20 §§ 2698–2699.5, Plaintiff and Aggrieved Employees will seek to recover civil penalties, including but
21 not limited to penalties under California Labor Code §§ 2699, 226.3, 510, 558, 1174.5, 1194, 1197,
22 1197.1 and IWC Wage Order No. 4-2001, §§ 7, 8, 11, and 12, from Defendants in a representative
23 action for the violations set forth above, including but not limited to violations of California Labor Code
24 §§ 201-203, 204, 221-223, 226, 226.3, 226.8, 510, 1174, 1174.5, 1197, 1197.1 and 2802. Plaintiff and
25 Aggrieved Employees will also be entitled to an award of reasonable attorneys’ fees and costs pursuant
26 to California Labor Code § 2699(g)(1).

27 51. These penalties are in addition to any other relief available under the Labor Code.
28

52. Pursuant to California Labor Code §§ 2699.3, Plaintiff gave written notice on April 1, 2024, by online filing to the California Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories to support the alleged violations. As more than sixty-five (65) days have passed and the LWDA has not provided notice to Plaintiff that it intends to investigate the alleged violations, Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action under PAGA against Defendants on behalf of the State of California, herself and other Aggrieved Employees of Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Classes as described herein;
3. For an order appointing counsel for Plaintiff as Class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set forth in California Labor Code section 2802, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for damages and/or penalties pursuant to statute as set forth in Labor Code §§ 1194, 1197, and 1197.1, and for costs and attorneys' fees;
6. Upon the Third Cause of Action, for damages and/or penalties pursuant to statute as set forth in Labor Code §§ 510 and 1194, and for costs and attorneys' fees;
7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to statute as set forth in Labor Code section 226, and for costs and attorneys' fees;
8. Upon the Fifth Cause of Action, for restitution to Plaintiffs and other similarly effected members of the general public of all funds unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*;
9. On all causes of action for attorneys' fees and costs as provided by California Labor Code §§ 218.5, 226, 510, 1194, 1197, 1197.1, 2802 and Code of Civil Procedure § 1021.5;
10. Upon the Sixth Cause of Action, for all PAGA civil penalties and other recoveries

1 according to proof including, but not limited to, the amount of any and all civil penalties or other
2 amounts authorized by California Labor Code §§ 226, 226.3, 226.8, 558, 1174.5, and 2699, and IWC
3 Wage Order No. 9-2001, §§ 7 and 8 or other applicable IWC Wage Orders or any other applicable civil
4 penalty provisions authorized under California law; and

5 11. For such other and further relief as the Court may deem just and proper.

6 DATED: June 5, 2024

THE KICK LAW FIRM, APC

7
8 By: 

Taras Kick
Nicholas Rosenthal
Greg Taylor
Attorneys for Plaintiff and the Class