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Counsel for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

JENNIFER SMITH; TASHANA ARMSTRONG; SHALIA BILLIARD; MONICA DICKERSON; ANJORA HANSEN; EMILY JENSEN; and LINDSEY UHL,

Plaintiffs,

v.

COASTAL PAYROLL SERVICES, INC. and DOES 1-100, inclusive,

Defendants.

Case No. 37-2024-00029733-CU-OE-CTL

JOINT EX PARTE APPLICATION TO DISMISS FIFTH CAUSE OF ACTION FOR PAGA PENALTIES WITHOUT PREJUDICE; SUPPORTING DECLARATOINS; POINTS AND AUTHORITIES; STIPULATION; AND [PROPOSED] ORDER

Complaint Filed: June 24, 2024

Judge: Hon. Gregory W. Pollack
Dept.: C-71
Hearing Date: July 7, 2025
Hearing Time: 8:30 a.m.

JOINT EX PARTE APPLICATION

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

On July 7, 2025, at 8:30 a.m., or as soon thereafter as this matter may be heard at the Superior Court of California, County of San Diego, in Department C-71 located at 330 W Broadway, San Diego, California, 92101, Plaintiffs TASHANA ARMSTRONG, SHALIA BILLIARD, MONICA DICKERSON, ANJORA HANSEN, EMILY JENSEN, JENNIFER SMITH, and LINDSEY UHL (collectively, "Plaintiffs") and Defendant COASTAL PAYROLL SERVICES, INC. ("Defendant") (Plaintiffs and Defendant are collectively, the "Parties"), will and hereby jointly apply to the Court for an Order on an *ex parte* basis dismissing Plaintiffs' Fifth Cause of Action for civil penalties under the Private Attorneys General Act of 2004 ("PAGA") without prejudice. The notice requirement is satisfied because the Parties agreed on the time, date, and location for their joint *ex parte* hearing. Additionally, the parties uploaded the *ex parte* application and supporting papers to the LWDA to provide the LWDA notice on the same day the Parties filed these papers with this Court.

INTRODUCTION

Unlike class actions, which require a court to evaluate whether a dismissal is fair to absent class members (*see* Cal. Rule of Court 3.770), PAGA actions may be dismissed as a matter of right. *See* Cal. Lab. Code § 2699(s)(2) (requiring court approval of PAGA *settlements*, but not *dismissals*). However, the Parties seek dismissal of Plaintiffs' PAGA claim on an *ex parte* basis for two reasons. First, the Parties have reached a settlement of Plaintiffs' individual claims, but that settlement cannot be concluded while Plaintiffs' PAGA claim remains pending. The Parties wish to expeditiously dismiss the PAGA claim so as to preserve the individual settlement and resolve this matter quickly and completely. Second, the Parties are cognizant that the Court may have questions regarding dismissal of any representative claim and want to make themselves available to answer such questions, rather than simply submitting a stipulation seeking the same relief.

Therefore, although not required by Labor Code section 2699(s)(2), the Parties set forth below their grounds for seeking dismissal of Plaintiff's PAGA claim so as to address any concerns the Court may have.

DECLARATION OF JASON WHOOPER

I, Jason Whooper, declare that if called as witnesses, I could and would competently testify to the following of our personal knowledge:

2. I am the managing attorney and owner of W Law, counsel of record for the Plaintiffs in this matter.

3. On June 21, 2024, Plaintiffs submitted to the California Labor & Workforce Development Agency ("LWDA") and served on Defendant a notice of their intent to pursue civil penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* ("PAGA").

4. On June 24, 2024, Plaintiffs filed a Complaint against Defendant in the San Diego County Superior Court, thereby initiating this action. On August 27, 2024, Plaintiffs filed their operative First Amended Complaint ("FAC"). The FAC alleges five causes of action: (1) failure to pay wages; (2) failure to provide meal periods, (3) failure to provide compliant wage statements and keep records, (4) unfair business practices, and (5) civil penalties under PAGA. The core allegation and theory of Plaintiffs' PAGA claims is that Defendant's non-exempt employees suffered meal period violations. Specifically, Plaintiffs allege that Defendant failed to pay the required extra hour of regular rate wages for late or short meal periods because Defendant's timekeeping system did not register 30 minute meal periods that were taken after the fifth hour, or meal periods that lasted less than 30 minutes, as meal period violations. See a true and correct copy of Plaintiffs' June 21, 2024, PAGA Claims Notice attached hereto as Exhibit A.[1] Plaintiffs brought Causes of Action One through Four in their individual capacities and their Fifth Cause of Action for PAGA penalties as a representative claim on behalf of all other non-exempt employees of Defendant who worked in California during the applicable limitations period, June 21, 2023, to present.

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[1] The PAGA Claims Notice also alleges Defendant failed to pay Plaintiff Dickerson 2 weeks of earned wages and that Defendant failed to timely produce requested time records for all seven (7) Plaintiffs when Defendant timely produced payroll and personal records to Plaintiffs. But these 8 total pay periods have a maximum value of $800 in PAGA civil penalties and Defendants eventually produced the time records. This also warrants dismissing Plaintiffs' PAGA claims without prejudice because the Parties and Court cannot in good conscience waste resources in a litigation over a nominal 8 total pay periods of alleged PAGA violations that Defendant hotly contests.

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5. Following the filing of the Complaint, Defendant informed Plaintiffs that, in January 2023, it updated its procedures such that its timekeeping and payroll system will flag and automatically award a meal period premium on any shift in which an employee: (i) starts a first meal period after the fifth hour of work, (ii) takes a meal period of less than 30 minutes, (iii) does not take a first meal period on shifts over five hours, or (iv) does not take a second meal period on shifts over 10 hours.

6. Defendant also informed Plaintiffs that it instituted an audit process in January 2023 whereby it reviewed all then-current employees' time records going back to January 1, 2019, and paid additional meal period premiums that its timekeeping and payroll systems may have missed. Upon request, Defendant also performed its audit process for six of the seven Plaintiffs and paid them additional meal period premiums in March 2024 based on this audit.

7. Defendant also provided Plaintiffs copies of the meal and rest period policies it has issued to employees since 2021, as well as copies of written meal period waivers available to employees. Defendant also produced copies of Plaintiffs' time records, wage statements, and personnel files.

8. In June 2024, PAGA was amended to allow for reduced penalties where an employer takes "all reasonable steps" to comply with the Labor Code before receiving a notice from an employee of an intent to file a PAGA claim. In such instances, penalties are capped at no more than 15% of the otherwise-applicable PAGA penalties. A court may also reduce penalties to zero upon a showing that the employer has cured and remediated potential violations. These amendments apply to cases in which the employee sent an LWDA notice on or after June 19, 2024, which is two days before Plaintiffs sent their LWDA notice. Accordingly, the 2024 PAGA amendments apply to Plaintiffs' PAGA claim. On February 19, 2025, Defendant also identified a total of 95 nonexempt allegedly aggrieved employees and 4,831 pay periods from one year before the date Plaintiffs filed their PAGA claims notice on June 21, 2023, through October 1, 2024.

9. The Parties engaged in extensive settlement discussions, including the exchange of documents and information addressed above. The Parties considered Defendant's contention that it performed the above-mentioned audit and adjustments to its timekeeping system before the start

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of the one-year statute of limitations period applicable to Plaintiffs' PAGA claims, which purportedly remedied every potential meal period violation that Defendant's timekeeping system captured immediately on the pay date for each pay period, even for overinclusive instances where Defendant's employees may have intentionally violated Defendant's compliant meal period policies without Defendant's knowledge for which Defendant could not be held liable for missed meal periods. The Parties also considered the fact that Plaintiffs' PAGA claims were subject to the 2024 PAGA amendments, meaning it was possible that the Court would award zero penalties even if Plaintiffs established violations that were subsequently cured and remediated.

10. After extensive research, Plaintiffs could not locate any authority that explains whether PAGA violations occurred for which PAGA civil penalties may be recovered under the circumstances here. The closest authority Plaintiffs found was *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1255, which held that attorney fees statutes for unpaid wages did not apply to meal and rest break claims; and mentioned that Labor Code section 226.7 did not give employers a lawful choice between either providing meal and rest breaks or an additional hour of pay. But the latter was only dicta in *Kirby*; *Kirby* did not consider whether PAGA civil penalties can be recovered for meal break violations where employers immediately cure all recorded miss meal periods by paying an extra hour of regular rate pay for every workday with a missed meal period; indeed *Kirby* never even mentioned any types of PAGA claims; and *Kirby* was decided in 2010 long before the legislature amended the PAGA in June 2024 to purportedly allow employers to completely cure alleged meal periods violations to avoid PAGA civil penalties.

11. Plaintiffs and their counsel are not interested in making new law on appeal or risking significant resources to pursue uncertain PAGA civil penalties without any clear authority that authorizes civil penalties in under the circumstances here. Additionally, Plaintiffs believe it would be arbitrary, capricious, and confiscatory to all Parties here if this Court declined to dismiss Plaintiffs' PAGA claims (Fifth Cause of Action) and required the Plaintiffs to litigate this uncertain application of PAGA.

12. Based on the above, the Parties reached an agreement to settle Plaintiffs' non-PAGA claims only. The Parties now also seek to dismiss Plaintiffs' PAGA claims without prejudice. The

Parties have executed a settlement agreement that applies only to Plaintiffs' non-PAGA claims and does not settle, release, or otherwise allocate any money to Plaintiffs' PAGA claims. Accordingly, the Parties seek to dismiss Plaintiffs' PAGA claims (Fifth Cause of Action) *without* prejudice.

13. Plaintiffs' counsel uploaded to the Labor and Workforce Development Agency's (LWDA) website a copy of this Ex Parte Application to notify the LWDA of this ex parte application hearing and the request for a dismissal of Plaintiffs' PAGA claims (Fifth Cause of Action) without prejudice. See a true and correct copy of the email confirmation for the upload of the ex parte application papers to the LWDA's website attached hereto as Exhibit B. During the submission of the Ex Parte Application papers to the LWDA, Plaintiffs' counsel also filled in the ex parte application hearing date, time, and location fields on the LWDA's website to give the LWDA additional notice of this Ex Parte Application Hearing.

14. The Parties received notice of the date, time, location and papers for this joint ex parte application hearing by email and the Parties working together on this joint ex parte application.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in San Diego, California on the following date below.

Date: 06/27/2025

Jason Whooper, Declarant

DECLARATION OF CLINT ENGLESON

I, Clint Engleson, declare that if called as witnesses, I could and would competently testify to the following of our personal knowledge:

2. I am an attorney with Snell & Wilmer L.L.P., counsel of record for the Defendant in this matter.

3. On June 21, 2024, Plaintiffs submitted to the California Labor & Workforce Development Agency ("LWDA") and served on Defendant a notice of their intent to pursue civil penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* ("PAGA").

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4. On June 24, 2024, Plaintiffs filed a Complaint against Defendant in the San Diego County Superior Court, thereby initiating this action. On August 27, 2024, Plaintiffs filed their operative First Amended Complaint ("FAC"). The FAC alleges five causes of action: (1) failure to pay wages; (2) failure to provide meal periods, (3) failure to provide compliant wage statements and keep records, (4) unfair business practices, and (5) civil penalties under PAGA. Plaintiffs brought Causes of Action One through Four in their individual capacities and their Fifth Cause of Action for PAGA penalties as a representative claim on behalf of all other non-exempt employees of Defendant who worked in California during the applicable limitations period, June 21, 2023, to present.

5. Following the filing of the Complaint, Defendant informed Plaintiffs that, in January 2023, it updated its procedures such that its timekeeping and payroll system will flag and automatically award a meal period premium on any shift in which an employee: (i) starts a first meal period after the fifth hour of work, (ii) takes a meal period of less than 30 minutes, (iii) does not take a first meal period on shifts over five hours, or (iv) does not take a second meal period on shifts over 10 hours.

6. Defendant also informed Plaintiffs that it instituted an audit process in January 2023 whereby it reviewed all then-current employees' time records going back to January 1, 2019, and paid additional meal period premiums that its timekeeping and payroll systems may have missed. Upon request, Defendant also performed its audit process for six of the seven Plaintiffs and paid them additional meal period premiums in March 2024 based on this audit.

7. Defendant also provided Plaintiffs copies of the meal and rest period policies it has issued to employees since 2021, as well as copies of written meal period waivers available to employees. Defendant also produced copies of Plaintiffs' time records, wage statements, and personnel files.

8. In June 2024, PAGA was amended to allow for reduced penalties where an employer takes "all reasonable steps" to comply with the Labor Code before receiving a notice from an employee of an intent to file a PAGA claim. In such instances, penalties are capped at no more than 15% of the otherwise-applicable PAGA penalties. A court may also reduce penalties to zero upon

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a showing that the employer has cured and remediated potential violations. These amendments apply to cases in which the employee sent an LWDA notice on or after June 19, 2024, which is two days before Plaintiffs sent their LWDA notice. Accordingly, the 2024 PAGA amendments apply to Plaintiffs' PAGA claim. On February 19, 2025, On February 19, 2025, Defendant also identified a total of 95 nonexempt allegedly aggrieved employees and 4,831 pay periods from one year before the date Plaintiffs filed their PAGA claims notice on June 21, 2023, through October 1, 2024.

9. The Parties engaged in extensive settlement discussions, including the exchange of documents and information addressed above. The Parties considered Defendant's contention that it performed the above-mentioned audit and adjustments to its timekeeping system before the start of the one-year statute of limitations period applicable to Plaintiffs' PAGA claim. They also considered the fact that Plaintiffs' PAGA claim was subject to the 2024 PAGA amendments, meaning it was possible that the Court would award zero penalties even if Plaintiffs established violations that were subsequently cured and remediated.

10. Based on the above, the Parties reached an agreement to settle Plaintiffs' non-PAGA claims only and to dismiss Plaintiffs' PAGA claims without prejudice. The agreement does not settle, release, or allocate any money to Plaintiffs' PAGA claims. Accordingly, the Parties seek to dismiss Plaintiffs' PAGA claims (Fifth Cause of Action) *without* prejudice.

11. The Parties request dismissal of Plaintiffs' PAGA claim on an *ex parte* basis because they cannot conclude the settlement of Plaintiffs' individual claims until the PAGA claims are dismissed. Although Defendant is paying no amount to settle Plaintiffs' PAGA claims, this lawsuit cannot be fully resolved until Plaintiff's PAGA claim is dismissed. The Parties are also cognizant that the Court may have questions regarding a request for dismissal of a PAGA claim and want to make themselves available to the Court for this purpose.

12. Nothing in this declaration or stipulation below shall be construed to be an admission or acknowledgement of the validity of any claims and defenses by the Parties.

13. The Parties received notice of the date, time, location and papers for this joint ex parte application hearing by email and the Parties working together on this joint ex parte application.

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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 in San Diego, California on the following date below.

Date: 06/27/2025

Clint Engleson, Declarant

MEMORANDUM OF POINTS AND AUTHORITIES

I. DISMISSAL OF PLAINTIFFS' PAGA CLAIM IS APPROPRIATE ON AN *EX PARTE* BASIS.

A. The Parties' Request to Dismiss Plaintiffs' PAGA Claim Is Appropriate Because They Are Not Settling the PAGA Claim and Because Defendant Cured all the Missed Meal Periods Included in Plaintiffs' PAGA Claim.

The Parties have reached the terms of a settlement that encompasses Plaintiffs' individual claims. The Parties are not settling Plaintiffs' PAGA claim and none of the settlement amount is allocated to PAGA penalties. Therefore, the Court may simply dismiss Plaintiffs' PAGA claim without further evaluation. *See* Cal. Lab. Code § 2699(s)(2). However, should the Court want to evaluate the Parties' reasoning for settling on an individual basis only, the Parties have ample support for that reasoning.

Pursuant to the PAGA amendment in effect beginning June 19, 2024, a person who takes all reasonable steps to comply with the Labor Code sections identified in the PAGA claims notice before receiving the notice shall not be assessed more than 15 percent of the accrued PAGA civil penalties. (*Labor Code* § 2699(g)(1).) Additionally, "An employer who satisfies subdivision (g) or (h) and cures a violation shall not be required to pay a civil penalty for that violation." (*Labor Code* § 2699(j).)

<u>Here, Defendant took all reasonable steps to comply with the Labor Code sections governing missed meal periods before Plaintiffs submitted their PAGA claims to the LWDA on June 21, 2024.</u> Plaintiffs' June 21, 2024, PAGA claims notice primarily alleges that Defendant failed to pay the required extra hour of regular rate wages to non-exempt employees for missed meal periods, meal periods taken after the fifth hour, or for meal periods that lasted less than 30 minutes.

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But in January 2023, Defendant updated its procedures for its timekeeping and payroll system to flag and automatically award a meal period premium on any shift in which an employee: (i) starts a first meal period after the fifth hour of work, (ii) takes a meal period of less than 30 minutes, (iii) does not take a first meal period on shifts over five hours, or (iv) does not take a second meal period on shifts over 10 hours. Defendant reviewed all then-current employees' time records going back to January 1, 2019, and paid additional meal period premiums that its timekeeping and payroll systems may have missed. Defendant also performed its audit process and paid additional missed meal period premiums to 6 of the 7 Plaintiffs here who requested it in March 2024, before Plaintiffs filed their PAGA Claims Notice on June 21, 2024.

Therefore, Plaintiffs have elected not to pursue their PAGA claim because Defendant cured the alleged Labor Code violations over a year before Defendant received Plaintiffs' PAGA Claims Notice.

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B. The Parties' Request to Dismiss Plaintiffs' PAGA Claim Is Appropriate Because Case Law Is Unsettled as to Whether Plaintiffs May Pursue PAGA Penalties for "Cured" Labor Code Violations.

As addressed above, Defendant presented evidence that it "cured" potential meal period violations by issuing meal period premiums to employees in the same pay period in which those potential violations occurred. In light of this information, Plaintiffs considered pursuing PAGA penalties on the theory that, even though an employer has "cured" a Labor Code violation, a violation nonetheless occurred. However, Plaintiffs were unable to find any authority directly on point that would permit the imposition of PAGA penalties for Labor Code violations that were "cured" in the same pay period in which they occurred. The closest authority Plaintiffs found was *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1255. But as explained below, *Kirby* does not provide clear guidance on this issue.

In *Kirby*, the California Supreme Court held that attorney fees statutes for unpaid wages did not apply to meal and rest break claims and observed that Labor Code section 226.7 did not give employers a lawful choice between either providing meal and rest breaks or an additional hour of pay. But the court's observation was only dicta in *Kirby*; *Kirby* did not consider whether PAGA civil penalties can be recovered for meal period violations where employers immediately cure all miss meal periods by paying an extra hour of regular rate pay for every workday with a missed meal period each pay period; *Kirby* did not include PAGA claims; and *Kirby* was decided in 2010 long before the legislature amended the PAGA in June 2024 to purportedly allow employers to completely cure alleged meal periods violations to avoid PAGA civil penalties.

Therefore, Plaintiffs could not find any authority that PAGA civil penalties are available where an employer timely pays all missed meal period premium wages. For this reason, too, Plaintiffs have elected to dismiss their Fifth Cause of Action for PAGA penalties.

Should the Court have any questions regarding the bases for dismissal of Plaintiffs' PAGA claim, the Parties will be happy to address them at the *ex parte* hearing.

Dated: June 27, 2025

W LAW

By:____________________________________
Jason Whooper, Counsel for Plaintiffs

Dated: June 27, 2025

SNELLL & WILMER L.L.P.

By:____________________________________
Clint Engleson, Attorneys for Defendant
Coastal Payroll Services, Inc.

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STIPULATION

1. Plaintiffs' Fifth Cause of Action for PAGA Claims, shall be dismissed *without* prejudice.

2. The Parties are to bear their own fees and costs.

IT IS SO STIPULATED.

Dated: June 27, 2025

W LAW

By:______________________________
Jason Whooper, Counsel for Plaintiffs

Dated: June 27, 2025

SNELLL & WILMER L.L.P.

By:______________________________
Clint Engleson, Attorneys for Defendant
Coastal Payroll Services, Inc.

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[PROPOSED] ORDER

The Court, having reviewed the Joint Stipulation of the parties, orders as follows:

1. Plaintiffs' Fifth Cause of Action for PAGA Claims, shall be dismissed *without* prejudice.

2. The Parties are to bear their own fees and costs.

IT IS SO ORDERED.

Dated: _______________, 2025

____
Honorable Gregory W. Pollack
Judge of the Superior Court

EXHIBIT A

June 21, 2024

W LAW
1916 3rd Ave
San Diego, CA 92101
Tel: (619) 432-2836
Fax: (619 717-2111
Email: jason@wlawinc.com

UPLOADED VIA DIR WEBSITE
Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
dir.ca.gov

Re: ***Jennifer Smith; Tashana Armstrong; Shalia Billiard; Monica Dickerson; Anjora Hansen; Emily Jensen; and Lindsey Uhl v. Coastal Payroll Services, Inc.; and Does 1-100, inclusive***
PAGA Claim Notice

To Whom It May Concern:

I, Jason Whooper, of the law firm W Law, represent Plaintiffs JENNIFER SMITH (hereinafter “SMITH”), TASHANA ARMSTRONG (hereinafter “ARMSTRONG”), SHALIA BILLIARD (hereinafter “BILLIARD”), MONICA DICKERSON (hereinafter “DICKERSON”), ANJORA HANSEN (hereinafter “HANSEN”), EMILY JENSEN (hereinafter “JENSEN”), and LINDSEY UHL (hereinafter “UHL”), for causes of action against Defendants COASTAL PAYROLL SERVICES, INC. (hereinafter “COASTAL”); and DOES 1-100, inclusive (hereinafter collectively referred to as “Defendants”).

Pursuant to Labor Code section 2699.3, this letter constitutes written notice of Defendants’ violations of the Labor Code and Wage Orders, and of our intent to recover civil penalties under the Labor Code Private Attorney General Act (“PAGA”) of 2004.

GENERAL ALLEGATIONS

COASTAL is an entity engaged in the full-service payroll and human resources business. Defendants employed UHL in San Diego, California from in or around March 2018 through October 2023, as a nonexempt senior implementation specialist and implementation supervisor.

Defendants employed JENSEN in San Diego, California from in or around November 2021 through June 2023, as a nonexempt Benefits Specialist.

Defendants employed DICKERSON in San Diego, California from in or around October 2018 through August 2022, as a nonexempt Implementation Specialist.

Defendants employed BILLIARD in San Diego, California from in or around March 2017 through December 2021, as a nonexempt Human Capital Management Specialist.

Defendants employed SMITH in San Diego, California from in or around March 2016 through December 2021, as a nonexempt Time and Labor Specialist.

Defendants employed HANSEN in San Diego, California from in or around October 2018 through October 2021, as a nonexempt Implementation Specialist.

Defendants employed ARMSTRONG in San Diego, California from in or around September 2017 through September 2021, as a nonexempt Implementation Consultant.

Plaintiffs all generally worked at least 8 hours per workday and 40 hours per workweek. Depending on which employee and job, Plaintiffs' job duties required Plaintiffs to service Defendants' customers on scheduled and unscheduled support, meeting, and training phone calls for anywhere from more than 25 to 80 percent of their total work hours. Defendants also regularly transferred unscheduled customer calls to Plaintiffs and expected Plaintiffs to complete the calls with customers. Further, Plaintiffs' customer calls often lasted several hours and could last longer than 3 hours in some instances.

As a result of the working conditions, Defendants frequently failed to provide Plaintiffs compliant timely 30-minute off duty uninterrupted meal periods before Plaintiffs worked a period exceeding 5 hours. This includes short, late, and no meal periods in a workday. Further, Defendants willfully failed to timely pay Plaintiffs all earned wages twice per month by failing to pay Plaintiffs an additional hour of regular rate wages for each workday with a missed meal period, and as a result also failed to provide compliant wage statements showing Plaintiffs' earned missed meal period wages.

Also, pursuant to Defendants' employment agreements, handbooks, policies, and practices with Defendants' employees, Defendants must pay employees 2 weeks of wages to employees who provide Defendants 2 weeks of notice of their resignation. After Plaintiffs gave Defendants 2 weeks of notice of their resignation, Defendants made the resignations effective immediately and refused to pay the 2 weeks of wages Defendants owed to some of the Plaintiffs including, but not limited to, DICKERSON.

Defendants willfully failed to pay Plaintiffs all their earned wages from missed meal periods, resignation wages, etc. when Plaintiffs' employment ended. More than 30 days have passed since Plaintiffs' employment has ended, which entitles Plaintiffs to 30 days of additional wages as waiting time penalties that Defendants also have not paid to Plaintiffs.

Plaintiffs are informed and believe that Defendants learned no later than in or around June 2023 that it owed significant amounts of missed meal period wages to most of Defendants' employees going back many years. Plaintiffs are also informed and believe that Defendants then paid some small amount of the unpaid missed meal period wages to some current employees at the time, including JENSEN and UHL, without providing the employees time records, an audit trail, or compliant wage statements showing the number of meal period violations, rate of pay for the meal period wages, or pay periods covered.

Plaintiffs are informed and believe that Defendants also willfully concealed the unpaid missed meal period wages from all of Defendants' former employees when Defendants paid the missed meal period wages to current employees at the time. Plaintiffs, who were no longer employed by Defendants when Defendants implemented their scheme to conceal the unpaid wages, discovered Defendants' scheme in or around March 2024 and asked Defendants for their unpaid missed meal period wages. Defendants paid those Plaintiffs some amounts of the wages without the interest and waiting time penalties they were entitled to and issued those Plaintiffs noncompliant wage statements without the number of meal period violations, rate of pay for the meal period wages, or pay periods covered which injured Plaintiffs by preventing them from determining how much unpaid wages Defendants owed Plaintiffs compared to what Defendants paid.

Plaintiffs thereafter made several requests that Defendants provide payroll, time, and personnel records including, but not limited to, a formal records request letter from counsel that included a 21-day payroll and time records request and a 30-day personnel records request on April 30, 2024. Plaintiffs' request included, "All timecards, time punches, time sheets, time records, audit trails, audit logs, and records that identify time records, modifications, and the users who made those entries including, but not limited to, for late, short and missed meal periods." Plaintiffs are informed and believe that more than a reasonable time has passed for Defendants to produce the time records and Defendants continue to intentionally fail to produce these time records.

Plaintiffs are informed and believe that Defendants engaged in Labor Code and Wage Orders violations against all of Defendants' PAGA aggrieved employees in California which were like the violations against Plaintiffs described above and additionally Defendants engaged in different violations of the Labor Code and Wage Orders that Plaintiffs did not suffer.

In sum, Plaintiffs are informed and believe Defendants engaged in unlawful conduct and practices against Plaintiffs and other PAGA aggrieved employees in California whom Defendants employed during the statute of limitations period in violation of the Wage Orders and Labor Code including, but not limited to, by: 1.) failure to timely pay earned wages timely twice per month, 2.) failure to provide meal periods, 3.) failure to pay wage premiums for missed meal periods, 4.) failure to provide compliant wage statements and keep records, 5,) failure to pay employees an agreed upon 2-weeks of wages in exchange for 2-weeks of notice of resignation, 6.) failure to pay all earned wages at the termination of the employment relationship, 7.) failure to pay waiting time penalties, 8.) failure to timely produce requested time records and other employee records.

Plaintiffs are informed and believe that Defendants' violations were all knowing and willful in disregard of the Labor Code and Wage Orders. Accordingly, Plaintiffs are entitled to recovery of civil penalties pursuant to various regulations and statutes including, but not limited to, the Wage Orders and Wage Order 4-2001 sections 4, 7, 11, and 20 et al.; and pursuant to Labor Code sections including, but not limited to, sections 203, 204, 210, 226, 226.3, 226.7, 256, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197.1, 1198.5, et al.

REQUEST TO THE LWDA

Accordingly, Plaintiffs respectfully request that the Labor & Workforce Development Agency ("LWDA") initiate an enforcement action with respect to the violations described or authorize Plaintiffs to do so on behalf of the State of California. If the LWDA declines to pursue enforcement, Plaintiffs intend to litigate the PAGA claims with a Superior Court action for individual claims and in a representative claims on behalf of California for all PAGA aggrieved employees' representative claims within the statute of limitations period, for civil penalties pursuant to various regulations and statutes including, but not limited to, the Wage Orders and Wage Order 4-2001 sections 4, 7, 11, and 20 et al.; and pursuant to Labor Code sections including, but not limited to, sections 203, 204, 210, 226, 226.3, 226.7, 256, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197.1, 1198.5, et al.

If you have any questions or concerns regarding the above, please do not hesitate to contact my office. Thank you for your attention to this matter.

Sincerely,

Jason Whooper

cc:

<u>SENT VIA CERTIFIED U.S. MAIL</u>

Coastal Payroll Services, Inc.
C/o Clint Engleson
Snell & Wilmer
12230 El Camino Real, Suite 300
San Diego, CA 92130

Subject: Thank you for submission of your PAGA Case.
Date: Friday, June 21, 2024 at 8:28:57 PM Pacific Daylight Time
From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: Jason Whooper <jason@wlawinc.com>

6/21/2024

LWDA Case No. LWDA-CM-1035824-24
Law Firm : W Law
Plaintiff Name : Jennifer Smith, Tashana Armstrong, Shalia Billiard, Monica Dickerson, Anjora Hansen, Emily Jensen, Lindsey Uhl
Employer: Coastal Payroll Services, Inc.
Filing Fee : $75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT B