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Electronically FILED by
Superior Court of California,
County of Los Angeles
10/01/2024 5:44 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By T. Tang, Deputy Clerk

Attorneys for Plaintiff JULIO FUENTES MESTANZA, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of herself and other current and former employees.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JULIO FUENTES MESTANZA, as an
individual, and on behalf of all similarly
situated employees,

Plaintiff,

v.

YZER, LLC; PEOPLEASE LLC; and
DOES 1-50, inclusive,

Defendants.

Case No.: **24NWCVO3447**

REPRESENTATIVE ACTION

1. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Keep Accurate Payroll Records and Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and

1 Plaintiff JULIO FUENTES MESTANZA (“Plaintiff”) as a representative of the State of
2 California and the Labor and Workforce Development Agency (“LWDA”), and on behalf of
3 himself and other current and former employees, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
6 who were subjected to one or more of the violations alleged herein (“Aggrieved Employees”) by
7 Defendant YZER, LLC (“Defendant Yzer”) and Defendant PEOPLEASE LLC (“Defendant
8 Peoplease”) (hereinafter collectively “Defendants”). The term “Relevant Time Period” or “Time
9 Period” is defined as one (1) year plus sixty-five (65) days prior to the filing of the complaint.
10 Plaintiff reserves the right to amend this complaint to reflect a different “Time Period” as further
11 discovery is conducted.

12 2. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
13 against Defendant for its: (1) failure to pay all wages due, including regular and overtime wages;
14 (2) failure to provide meal periods or premium compensation in lieu thereof; (3) failure to provide
15 rest periods or premium compensation in lieu thereof; (4) failure to keep accurate payroll records
16 and provide accurate itemized wage statements; and (5) failure to pay wages due upon termination
17 of employment.

18 3. At all relevant times herein, Defendants has consistently maintained and enforced
19 the following unlawful policies and practices against Plaintiff:

- 20 (a) Willfully refusing to pay all hours worked, including both regular and overtime
21 wages;
- 22 (b) Willfully refusing to permit off-duty meal periods or providing compensation in
23 lieu thereof;
- 24 (c) Willfully refusing to permit rest periods or providing compensation in lieu thereof;
- 25 (d) Willfully refusing to furnish accurate itemized wage statements upon payment of
26 wages;
- 27 (e) Willfully refusing to pay all wages due upon separation of employment; and

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1 **JURISDICTION AND VENUE**

2 4. This Court has subject matter jurisdiction over the causes of action alleged in this
3 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
4 excluded from exercising subject matter jurisdiction over said causes of action.

5 5. Venue is proper in the County of Los Angeles, because the Defendants maintain its
6 location and transact business in this county, the obligations and liability arise in this county, and
7 work performed by Plaintiff and Aggrieved Employees that form the subject of this action
8 occurred in this county.

9 6. The California Superior Court has jurisdiction in the matter, because of the
10 individual claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional
11 threshold for Federal Court and this action seeks recovery of civil penalties. Plaintiff is a resident
12 of and/or domiciled in the State of California. Defendants are a corporation and a partnership
13 doing business in the State of California.

14 7. Further, there is no federal question at issue as the issues herein are based solely on
15 California statutes and law, including the Labor Code, Code of Civil Procedure, Business and
16 Professions Code, and California Rules of Court.

17 **THE PARTIES**

18 **Plaintiff**

19 8. Plaintiff was employed by the Defendants from in or around July 2021 through on
20 or around July 28, 2023, as an hourly non-exempt employee, specifically a “delivery driver”.
21 Each of the Aggrieved Employees are identifiable, current and/or formerly similarly situated
22 persons who were employed in non-exempt hourly positions in California for the Defendants
23 during the Relevant Time Period.

24 **Defendants**

25 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant Yzer
26 is a Florida limited liability company which does business in California, was Plaintiff’s employer
27 during the relevant employment period, and is engaged in providing medication transportation
28 services, and was authorized and qualified to do business throughout the state of California,

1 including Los Angeles County, and is and/or was the employer of the Plaintiff and Aggrieved
2 Employees during the Relevant Time Period. During the Relevant Time Period, Defendant
3 employed Plaintiff and similarly situated persons and failed to pay Plaintiff and Aggrieved
4 employees for all hours worked as a result of working off the clock before or after the start of
5 their shifts, failing to pay minimum and overtime wages, failing to provide meal periods or pay
6 a meal period penalty in lieu of, failed to provide rest periods or pay a rest period penalty in lieu
7 of; failed to pay all wages upon end of employment, and failed to provide accurate and itemized
8 wage statements. On information and belief, and based thereon alleges that Defendant Yzer is
9 conducting business in good standing in California.

10 10. Plaintiff is informed and believes, and based on thereon allege, that Defendant
11 Peoplease is a South Carolina limited liability company conducting business in California in
12 good standing, including Los Angeles County. Defendant Peoplease was/is the employer of
13 Plaintiff and Aggrieved Employees during the Relevant Time Period. During the Relevant Time
14 Period, Defendant employed Plaintiff and similarly situated persons and failed to pay Plaintiff
15 and Aggrieved employees for all hours worked as a result of working off the clock before or
16 after the start of their shifts, failing to pay minimum and overtime wages, failing to provide meal
17 periods or pay a meal period penalty in lieu of, failed to provide rest periods or pay a rest period
18 penalty in lieu of; failed to pay all wages upon end of employment, and failed to provide accurate
19 and itemized wage statements.

20 11. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
21 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
22 inclusive, but on information and belief alleges that said Defendants are legally responsible for
23 the violations alleged herein. Plaintiff will amend this complaint to allege the true names and
24 capacities of the DOE Defendant when ascertained.

25 12. Plaintiff is informed believes, and thereon alleges, that each Defendants acted in
26 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
27 business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally
28 attributable to the other Defendants. Furthermore, Defendants operate as a joint venture and/or

single business enterprise, integrated enterprise and/or are agents of one another, are alter egos, joint employers and conspire with one another to increase profits by engaging in the conduct described in this complaint.

13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

PAGA ADMINISTRATIVE PREREQUISITE

14. By this complaint, Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided by PAGA, labor Code section 2698 et seq., to the extent permitted by law, as an aggrieved employee who was employed by Defendants and subject to alleged violations set forth in Labor Code section 2699.5. Plaintiff and other Aggrieved Employees are current and former employees of Defendants dating from one (1) year plus sixty-five (65) days prior to the filing of this matter to the resolution of this matter. Plaintiff specifically alleged the following in their notice to the Labor and Workforce Development Agency ("LWDA") and the employer violations of Labor Code sections 201, 202, 203, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, as well as Industrial Welfare Commission (IWC) Wage Order No. 4-2001 (Wage Order 4) and Wage Order No. 9-2001 ("Wage Order 9).

15. Under Labor Code section 2699.3 subdivision(a), a Plaintiff may bring a cause of action under PAGA only after giving notice to the LWDA and the employer of the Labor Code section alleged to have been violated, and after sixty-five (65) days have passed without notice. Prior to filing this complaint, on July 26, 2024, Plaintiff gave written notice by certified electronic mail to the LWDA and to Defendants of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violation as required by Labor Code section

2699.3. Plaintiff was given an LWDA case number of LWDA-CM-1041946-24. A true and correct copy of Plaintiff's original letter sent to the LWDA on July 26, 2024, is attached hereto as "Exhibit A."

16. More than sixty-five (65) days have passed since Plaintiff submitted his July 26, 2024, notice to the LWDA and Defendants of the specific alleged Labor Code violations and the LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations. Plaintiff further has received no notice of Defendant's intent to cure any of the alleged violations. Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard to his July 26, 2024, PAGA notice.

FACTUAL ALLEGATIONS

17. This lawsuit arises out of an ongoing wrongful scheme by Defendants to deny their employees the benefits due under California's wage and hour laws for work performed in California. Defendants wrongfully refused to pay Plaintiff and Aggrieved Employees regular wages, overtime compensation, and other statutory benefits mandated by California.

18. Throughout the Relevant Time Period, Defendants employed Plaintiff and Aggrieved Employees in non-exempt positions throughout their California locations. Accordingly, these positions remain non-exempt from California's wage and hour laws, yet Defendants failed to pay overtime, provide meal and rest breaks and otherwise pay all wages due to these non-exempt employees as required by law.

19. During the Relevant Time Period, Defendants failed to compensate Plaintiff and Aggrieved Employees legally mandated minimum wages and overtime rate for all work performed during their shifts in violation of the Labor Code and the Labor Code and Industrial Welfare Commission ("IWC") Wage Orders. During the course of Plaintiff's employment with Defendants, Plaintiff and Aggrieved Employees regularly worked in excess of eight (8) hours per day, but were routinely not paid for all hours worked. Plaintiff and Aggrieved Employees primarily performed non-exempt work in excess of the maximum regular rate hours set by the IWC in the applicable Wage Orders, regulations or statutes, and therefore entitled the Plaintiff and Aggrieved Employees to overtime compensation at time and a half rate, and when applicable,

double time rates as set forth by the applicable Wage Orders, regulations and/or statutes. Further, Plaintiff and Aggrieved Employees regularly worked through meal and rest breaks, and were not paid the legally mandated regular or overtime wages for the hours they worked.

20. During the Relevant Time Period, Defendants, failed and/or refused to schedule Plaintiff and Aggrieved Employees in an overlapping manner so as to reasonably provide meal and/or rest breaks and/or shift relief for Plaintiff and Aggrieved Employees, thereby causing members of the Aggrieved Employees to work without being given paid ten (10) minute rest periods for every four (4) hours or major fraction thereof worked and without being given a thirty (30) minute meal period for shifts of at least five (5) hours and second thirty (30) minute meal periods for shifts of at least ten (10) hours during which Aggrieved Employees were relieved of all duties and free to leave the premises. Defendants further failed and/or refused to schedule Plaintiff and Aggrieved Employees in an overlapping manner and/or provide shift relief for Plaintiff and Aggrieved Employees so as to reasonably ensure meal and/or rest breaks were taken within the required statutory time frame as required by law. Furthermore, Defendants failed and/or refused to pay any Aggrieved Employee one (1) hour's pay at the employees' regular rate of pay as premium compensation for failure to provide rest and/or meal periods or to providing such rest and/or meal periods within the statutory time frame as a result of their scheduling policy.

21. As a result of Defendant's aforementioned failure to pay all wages to Plaintiff and Aggrieved Employees, due to its unfair rounding practices, and requiring Plaintiff and Aggrieved employees to work off the clock, among other things, Defendants failed to maintain accurate payroll records showing the accurate number of hours worked, accurate rate of pay for each hour worked, premium wages earned, and accurate gross and net wages paid in violation of Labor Code sections 226, 1174, and 1174.5. Specifically, Defendants failed to provide Plaintiff and other Aggrieved Employees with wage statements that include all rest and meal premiums, total number of hours worked at each hourly rate, the correct overtime rate, gross and net wages earned, as well as the correct legal entity address.

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22. Plaintiff and Aggrieved Employees who ended their employment during the Relevant Time Period, were not paid the above due compensation or premium compensation timely upon the termination of their employment as required by Labor Code.

23. During the Relevant Time Period, Defendants and each of them, required Plaintiff and Aggrieved Employees to work without lawful compensation, in violation of the California Labor Code, applicable Wage Orders, regulations and statutes, and Defendants: (1) willfully failed and refused, and continue to fail and refuse to pay compensation for all hours worked for the Plaintiff and Aggrieved Employees: and (2) willfully failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon termination of employment to Plaintiff and Aggrieved Employees.

FIRST CAUSE OF ACTION

VIOLATION OF PAGA FOR RECOVERY OF UNPAID MINIMUM WAGE AND OVERTIME

(Plaintiff Against All Defendants)

24. Plaintiff realleges and incorporate by reference the preceding paragraphs of this complaints as if fully set forth herein.

25. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day and forty (40) hours per weeks. Defendants failed to pay Plaintiff and Aggrieved Employees minimum wage for all hours worked and overtime premium for hours worked in excess of over eight (8) hours per day and/or forty (40) per week for work performed for the Defendants. Defendants failed to pay Plaintiff and Aggrieved Employees overtime premium for hours worked in excess of eight (8) hours per day and forty (40) per week for work performed for Defendants. Defendants failed to schedule Plaintiff and Aggrieved Employees in such a manner that allowed Plaintiff and Aggrieved Employees to be relieved of their shift immediately, thereby causing Plaintiff and Aggrieved Employees to work in excess of eight (8) per day and/or forty (40) per week. Furthermore, Defendant failed to include all renumeration for purposes of calculating Plaintiff and Aggrieved Employees' overtime.

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1 26. Defendants willfully violated the Labor Code by failing to pay Plaintiff and
2 Aggrieved Employees all wages, including both minimum wage and overtime. Plaintiff and
3 Aggrieved Employees were denied proper wages as a result of Defendant's policy of having
4 Plaintiff and Aggrieved Employees work after clocking out for their meal periods and failing to
5 compensate Plaintiff and Aggrieved Employees for all hours worked at the proper rate of pay
6 pursuant to Labor Code section 510.

7 27. Moreover, on information and belief, during the Relevant time Period, Defendants
8 implemented an unlawful rounding policy that failed to compensate Plaintiff and Aggrieved
9 Employees for all hours worked, in violation of the applicable Wage Orders, regulations, and
10 statutes. Defendant's rounding policy illegally resulted in favor of Defendants by decreasing the
11 amount of compensation paid to Plaintiff and Aggrieved Employees.

12 28. A valid rounding policy must be applied consistently and "favors neither
13 overpayment nor underpayment." (See e.g. *See's Candy Shops, Inc. v. Superior Court*, (2012)
14 210 Cal.App.4th 889.) An employer's rounding policy violates DOL regulations when it
15 "systematically undercompensates employees, such as...polic[ies] [that] only round down." (Id.)
16 Defendant's "rounding" policy fails to meet the "fairness" test as set out by the appellate court
17 that provided a "rounding" legality test. Under See's, the rule in California is that an employer is
18 entitled to use the nearest-tenth rounding policy if the rounding policy is fair and neutral on its
19 face and "it is used in such a manner that it will not result, over a period of time, in failure to
20 compensate the employees properly for all the time they have actually worked." (See's, 210
21 Cal.App.4th at 907.)

22 29. On information and belief, Plaintiff and Aggrieved Employees were habitually
23 undercompensated for their time. Contrary to federal law (29 C.F.R. § 785.48) which permits
24 rounding time to the nearest five (5) minutes, or one tenth or quarter of an hour, Defendant here
25 had no such distinguishable pattern of rounding employees' actual time worked. Whether
26 employees clocked in ten (10) minutes early or clocked out seven (7) minutes late, they were paid
27 for eight (8) hours. Hence, Defendant routinely rounded to the nearest hour for its own benefit.

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1 30. California statutes and regulations do not specifically address rounding, but Labor
2 Code sections 510 and 1194 clearly mandate employees must be paid the legally required
3 compensation for all time worked, including overtime. Plaintiff's preliminary analysis
4 demonstrates that the Defendant's "rounding" policy "systematically undercompensate[s]
5 employees," (Id., citing *Alonzo v. Maximus, Inc.*, 832 F. Supp. 2d 1122, 1126-1127 (C.D. Cal.
6 2011) because it is applied in concert with Defendant's "attendance, punctuality, and tardiness"
7 policies such that it is set up to result in Plaintiff and Aggrieved Employees being underpaid for
8 the hours worked and provides Defendants' free labor.) Instead, Defendants consistently rounded
9 the time employees worked downward to evade their overtime obligations.

10 31. Since the LWDA has not indicated that it will be investigating more than sixty-
11 five (65) days since Plaintiff provided notice, and because Defendants took no corrective action
12 to remedy the allegations set forth above, Plaintiff, as representatives of the State of California,
13 seek any and all penalties otherwise capable of being collected by the Labor Commission, the
14 LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of
15 the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3,
16 subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

17 32. Plaintiff is informed and believes that Defendants have violated, and continue to
18 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
19 minimum wages and overtime.

20 33. Plaintiff, as a representative of the State of California, seek to recover any and all
21 penalties for each and every violation shown to exist or to have occurred during the Relevant
22 Time Period, in an amount according to proof, as to those penalties that are otherwise only
23 available to public agency enforcement actions. Funds recovered will be distributed in accordance
24 with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being
25 reimbursed to the LWDA.

26 34. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
27 costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment
28 interest.

SECOND CAUSE OF ACTION
VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR
PREMIUM COMPENSATION IN LIEU THEREOF
(Labor Code Sections 226.7 and 512)
(Plaintiff Against All Defendants)

35. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

36. Labor Code sections 226.7 and 512 and IWC Wage Order 4-2001, Sect. 11 provides that no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

37. Labor Code sections 226.7 and 512 and IWC Wage Order 9-2001 Sect. 11 provides that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30) minutes.

38. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section. Plaintiff alleges that Defendant failed to provide legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not relieving employees from all work duties during meal periods thereby preventing employees from taking legally compliant meal periods.

39. Industrial Welfare Commission (IWC) Wage Order No. 4-2001 (Wage Order 4) section 11(A) states, "Unless the employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an

1 employee from being relieved of all duty and when by written agreement between the parties an
2 on-the-job paid meal period is agreed to. The written agreement shall state that the employee may,
3 in writing, revoke the agreement at any time.”

4 40. Industrial Welfare Commission (IWC) Wage Order No. 9-2001 (Wage Order 9)
5 section 11(C) states, “Unless the employee is relieved of all duty during a thirty (30) minute meal
6 period, the meal period shall be considered an “on duty” meal period and counted as time worked.
7 An “on duty” meal period shall be permitted only when the nature of the work prevents an
8 employee from being relieved of all duty and when by written agreement between the parties an
9 on-the-job paid meal period is agreed to. The written agreement shall state that the employee may,
10 in writing, revoke the agreement at any time.” The burden to prove that a meal or rest period
11 violation has occurred normally rests on the Plaintiff. However, under *Safeway, Inc. v. Superior*
12 *Court* (238 Cal. App. 4th 1138, 1159-60 (2015)), where an employer fails to keep accurate records
13 of meal and rest periods, a presumption of meal and rest period violations is created, shifting the
14 burden to the employer to prove that meal and rest period violations did not occur.

15 41. Defendants failed to schedule non-exempt employees in an adequately
16 overlapping manner so as to reasonably ensure Plaintiff and Aggrieved Employees could take
17 and/or receive such meal periods within the statutory timeframe. Further, Defendants obligated
18 Plaintiff and Aggrieved Employees to work through meal periods while off-the-clock.
19 Defendants denied Plaintiff and Aggrieved Employees duty-free meal periods, as a result,
20 Plaintiff and Aggrieved Employees were often forced to forego meal periods and/or work during
21 their meal periods. In so doing, Defendants have intentionally and improperly denied meal periods
22 to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512 and
23 other regulations and statutes.

24 42. Defendants further failed to implement a policy to pay Plaintiff and Plaintiff Class
25 an additional hour of pay at their regular rate of pay for rest periods not authorized or permitted.

26 43. Defendants failed to keep accurate records of the meal periods taken by Plaintiff
27 and Aggrieved Employees.

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1 44. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
2 than five (5) hours in a workday.

3 45. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have
4 worked more than ten (10) hours in a workday.

5 46. At all times relevant hereto, Defendants, failed offer or to schedule non-exempt
6 positions in a manner so as to reasonably provide meal and/or work free meal period as required
7 by Labor Code sections 226.7 and 512.

8 47. Defendant's failure to schedule Plaintiff and Aggrieved Employees in such a way
9 as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees,
10 and/or to provide on-duty meal periods in accordance with the applicable Wage Order, has caused
11 Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be
12 ascertained according to proof at trial.

13 48. Further, Defendants' failure to maintain accurate records of the meal periods taken
14 by Plaintiff and Aggrieved Employees creates a presumption of the violations having occurred
15 and shifts the burden to Defendants to prove they did not occur.

16 49. Plaintiff individually, and the Aggrieved Employees, request recovery of any civil
17 penalties against Defendants, and each of them, in a sum as provided by the Labor Code.

18 50. Since the LWDA has not indicated that it will be investigating and sixty-five (65)
19 days have passed since Plaintiff mailed his letter, and because Defendants took no corrective
20 action to remedy the allegations set forth above, Plaintiff, as representatives of the people of the
21 State of California, seek any and all penalties otherwise capable of being collected by the Labor
22 Commission, the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This
23 includes each of the following, as set forth in Labor Code section 2699.5, which provides that
24 section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 226.7
25 and 512.

26 51. Plaintiff are informed and believes that Defendants have violated and continues to
27 violate provisions of the Labor Code and applicable Wage orders related to the payment of
28 minimum wages, including overtime.

52. Plaintiff, as representatives of the State of California, seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA.

53. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

THIRD CAUSE OF ACTION

VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR

PREMIUM COMPENSATION IN LIEU THEREOF

(Plaintiff against All Defendants)

54. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

55. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

56. Labor Code section 226.7, subdivision (b), provides that if an employer fails to provide an employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

57. Defendants, and each of them, failed and or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive rest periods and/or work free rest periods. Defendants denied Plaintiff and Aggrieved Employees duty free rest periods by interrupting Plaintiff and Aggrieved Employees' rest periods. By and through their actions, Defendants intentionally and improperly denied duty free rest periods to the Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

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1 58. Furthermore, Defendants failed to provide Plaintiff and Aggrieved Employees
2 with duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest
3 periods all together in violation of Labor Code section 226.7 and 512.

4 59. Defendants failed to keep accurate records of the rest periods taken by Plaintiff
5 and Aggrieved Employees.

6 60. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked
7 more than four (4) hours in a workday.

8 61. By virtue of the Defendants' unlawful failure to provide rest periods to Plaintiff
9 and Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and
10 Aggrieved Employees have suffered, and will continue to suffer damages.

11 62. Plaintiff, by virtue of his employment with Defendants, and Defendants' failure to
12 provide Plaintiff and Aggrieved Employees with rest breaks, requiring Plaintiff and Aggrieved
13 Employees to work through their rest periods without receiving compensation in lieu thereof, is
14 an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied
15 all prerequisites to serve as a representative of the general public to enforce California's labor
16 laws, and the penalty provisions identified in Labor Code section 2699.5.

17 63. Plaintiff individually, and the Aggrieved Employees, as a representative of the
18 State of California, seek any and all penalties otherwise capable of being collected by the Labor
19 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
20 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
21 alleged violation of the following provisions: 226.7 and 512.

22 64. Plaintiff, as representative of the State of California, seek to recover any and all
23 penalties for each and every violation shown to exist or to have occurred during the Relevant
24 Time Period, in an amount according to proof, as to those penalties that are otherwise only
25 available to public agency enforcement actions. Funds recovered will be distributed in accordance
26 with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being
27 reimbursed to the LWDA.

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65. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

FOURTH CAUSE OF ACTION

**VIOLATION OF PAGA FOR FAILURE TO KEEP ACCURATE PAYROLL RECORDS
AND TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

(Labor Code Sections 1174 and 226, subdivision (A), (E))

(Plaintiff Against All Defendants)

66. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

67. Labor Code section 1174, subdivision (d), requires an employer to keep at a central location in California or at the plant or establishment at which the employees are employed, payroll records showing the hours worked daily, and the wages paid to each employee. Plaintiff is informed and believes, based thereon alleges, that Defendants willfully failed to make or keep accurate records for Plaintiff and similarly-aggrieved employees.

68. Labor Code section 226, subdivision (a), states in pertinent part that, "every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when 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 . . . ; (3) the number of piece-rate units earned . . . ; (4) all deductions . . . ; (5) net wages; (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 (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee..." (Lab. Code, § 226.)

69. Defendants knowingly and intentionally failed to provide timely and accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code section 226, subdivision (a), by failing to record the accurate number of actual hours worked, due

1 to its rounding polices, and requiring Plaintiff an Aggrieved Employees to work off the clock,
2 among other things, the accurate rate of pay for each hour worked, the accurate amount of
3 premiums wages earned, the accurate net pay, the accurate gross pay, as well as state the legal
4 entity's legal address. Such failure caused injury to Plaintiff and Aggrieved Employees.

5 70. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
6 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
7 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
8 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

9 71. Plaintiff, as a personal representative of the general public, will and does seek to
10 recover any and all penalties for each and every violation shown to exist or to have occurred
11 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
12 otherwise only available to public agency enforcement actions. Funds recovered will be
13 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
14 recovered being reimbursed to the LWDA.

15 72. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
16 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

17 **FIFTH CAUSE OF ACTION**

18 **VIOLATION OF PAGA FOR FAILURE TO PAY WAGES DUE UPON**

19 **TERMINATION OF EMPLOYMENT**

20 **(Plaintiff Against All Defendants)**

21 73. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
22 preceding paragraphs of this complaint as if fully set forth herein.

23 74. Labor Code section 201 provides that an employer is required to pay an employee
24 whose employment is terminated by the employer all wages earned and unpaid immediately upon
25 termination.

26 75. Labor Code section 202 required an employer pay to an employee who quits his
27 or her employment, all wages earned and unpaid no later than seventy-two (72) hours thereafter.

28 ///

1 76. Labor Code section 203 provides that an employer who fails to pay all wages
2 earned and due to an employee, who is discharged or who quits within the timeframe set forth in
3 sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at
4 the same rate of pay until paid, but no more than thirty (30) days.

5 77. Plaintiff is informed and believes that certain members of the Aggrieved
6 Employees who ended their employment with Defendants during the Relevant Time Period, were
7 entitled to be promptly paid both minimum wage and lawful overtime compensation and other
8 premiums, as required by Labor Code sections 201, 202 and 203.

9 78. Defendants refused and/or failed to promptly compensate Aggrieved Employees
10 wages owed as a result of Defendants' failure to provide meal and/or rest periods as well as pay
11 both minimum and overtime compensation owed for work performed for Defendants.

12 79. Plaintiff, by virtue of his employment with Defendants, is an aggrieved employee
13 with standing to bring an action under the PAGA and has suffered injury as to one (1) or more
14 violations committed by Defendants. Plaintiff has satisfied all prerequisites to serve as a
15 representative of the general public to enforce California's labor laws, and the penalty provisions
16 identified in Labor Code section 2699.5.

17 80. Plaintiff, as a representative of the people of the State of California, will seek any
18 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
19 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
20 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
21 201-203, 226, 226.7, 510, 512, 1174, and 1194.

22 81. Plaintiff, as a personal representative of the general public, will and does seek to
23 recover any and all penalties for each and every violation shown to exist or to have occurred
24 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
25 otherwise only available to public agency enforcement actions. Funds recovered will be
26 distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties
27 recovered being reimbursed to the LWDA.

28 ///

1 82. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
2 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

3
4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff and Class Members pray for judgment as follows:

6 1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee
7 as provided by law, including, but not limited to, those civil penalties provided by statute,
8 provided by PAGA;

9 2. For cost of suit and expenses incurred herein pursuant to Labor Code section 2699,
10 subdivision (g), and any other statutory basis or pursuant to the California Rules of Court;

11 3. For reasonable attorneys' fee pursuant to Labor Code section 2699, subdivision
12 (g), and any other statutory basis; and

13 4. For all such other and further relief as the Court may deem just and proper.
14

15 Dated: October 1, 2024

MAHONEY LAW GROUP, APC

16
17 
18 Kevin Mahoney, Esq.
19 Berkeh Alemzadeh, Esq.
20 Attorneys for Plaintiff JULIO FUENTES
21 MESTANZA and on behalf of all employees
22 similarly situated
23
24
25
26
27
28

EXHIBIT A



John A. Young
(562) 590-5550 phone
(562) 590-8400 facsimile
jyoung@mahoney-law.net

July 26, 2024

VIA ELECTRONIC FILLING

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

<https://dir.tfaforms.net/207>

VIA U.S. CERTIFIED MAIL

Certified Mail No. 7019 0700 0001 7488 4925

Yzer, LLC

Attn: Lovette Dobson

3400 Cottage Way

Sacramento, CA 95825

Certified Mail No. 7021 0950 0000 9825 1108

Yzer, LLC

9501 Norwalk Blvd.

Santa Fe Springs, CA 90670

Certified Mail No. 7019 0700 0001 7488 4932

Yzer, LLC

301 Whipple Road

Union City, CA 94587

Certified Mail No. 7021 0950 0000 9825 1115

Peoplease, LLC

210 Wingo Way, Suite 400

Mt. Pleasant, SC 29464

Re: Mestanza v. Yzer, LLC and Peoplease, LLC

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: Yzer, LLC, Peoplease, LLC and the California Labor and Workforce Development Agency
("LWDA")

From: Julio Fuentes Mestanza ("Employee"), through his counsel, Mahoney Law Group, APC.

Statement of Representation

Please note that this firm, Mahoney Law Group, APC, represents Mr. Fuentes.

Labor Code Sections Alleged to Have Been Violated

Employee alleges that Employer Yzer, LLC (“Employer Yzer”) and Employer Peoplease, LLC (“Employer Peoplease”) (hereinafter collectively “Employers”) violated California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 1174, and 1194.

Facts and Theories Supporting the Allegations

Failure to Record and Pay for all Hours Worked (Labor Code Sections 201, 202, 203, 226, 510, 512, 558, 558.1, 1194, and 1194.2)

Employee worked full-time for Employers from about July 2021 through July 2023, as a delivery driver. Employee alleges that Employers regularly and willfully failed to record all of Employee’s hours, including minimum and overtime wages. Employers regularly and willfully recorded only half of the hours Employee worked over eight hours a day, thereby depriving Employee wages he is owed. Employee further alleges, that Employee would regularly work through his meal breaks, and that Employers would automatically record that Employee had taken a meal break despite not receiving a meal period. As a result, Employee was not paid for time spent on duty working during his meal breaks. Employers knew or should have known that Employee worked these “off the clock” hours, but Employers failed to *report* these hours on Employee’s wage statements, and failed to *pay* Employee for these hours worked. When Employee’s employment with Employers was terminated, Employers willfully failed to pay Employee all wages he earned working for Employers (including wage premiums for meal and rest period violations), and Employers have yet to pay Employee these wages. On information and belief, Employee alleges that these practices were common to other employees. These practices violate Labor Code sections 201, 202, 226, 510, 512, 558, 558.1, 1194.2, and are subject to penalties under Labor Code section 203, which have not been paid.

Failure to Authorize and Permit Rest Periods; Failure to Report Wages Due for Failing to Authorize and Permit Rest Periods; and Failing to Pay Wages for Failing to Authorize and Permit Rest Periods (Labor Code Sections 201, 202, 203, 226, and 226.7)

Employee alleges that Employers willfully failed to authorize and permit Employee to take duty-free rest periods. Employee regularly worked shifts lasting eight or more hours without being relieved of duty for two ten-minute rest periods. Employers failed to communicate to Employee that Employee was entitled to two ten-minute duty-free rest periods. Employers had a practice of requiring Employee to remain on duty at all times and attend to Employers’ business needs. Employers failed to *report* the wage premiums due to Employee, for rest period violations, on Employee’s wage statements. Employers also failed to *pay* Employee premium wages for these rest period violations. On information and belief, Employee alleges that these practices were common to other employees. These practices violate Labor Code sections 201, 202, 203, 226,

226.7, 558, and 558.1.

Failure to Provide Meal Periods; Failure to Report Wages Due for Failing to Provide Meal Periods; and Failing to Pay Wages for Failing to Provide Meal Periods (Labor Code Sections 201, 202, 203, 226, 226.7, 510, 512, 558, 558.1, 1194, and 1194.2)

Employee further alleges that Employers regularly failed to provide thirty-minute, duty-free meal periods to Employee when Employee worked shifts longer than five hours, by requiring Employee to remain on duty and tend to Employers' business needs. Additionally, Employers had a policy in place during the relevant time period that employees were to take their meal break after the sixth hour of work. Thus, even when Employee did get a meal break, it was not timely. Employers failed to inform Employee that he could take thirty-minute, duty-free meal periods for shifts lasting longer than five hours. Employers failed to *report* the wage premiums due to Employee, for meal period violations, on Employee's wage statements, and all hours worked. Employers also failed to *pay* Employee wage premiums for these meal period violations, and for all hours worked. On information and belief, Employee alleges that these practices were common to other employees. These practices violate Labor Code sections 201, 202, 203, 226, 226.7, 510, 558, 558.1, 1194, and 1194.2.

Failure to Keep Accurate Payroll Records (Labor Code Section 226, 226.3, 1174, and 1174.5)

Labor Code section 226, subdivision (a), requires employers to furnish employees with accurate itemized wage statements reflecting the total hours worked, gross and net wages, applicable hourly rates, and corresponding number of hours worked at each hourly rate. Labor Code section 1174 further requires employers to keep accurate payroll records that include "the hours worked daily" by employees.

Employers failed to maintain complete and accurate payroll records and failed to provide Employee with complete and accurate wage statements. Specifically, Employee received wage statements that failed to include, without limitation, all rest and meal break premiums earned per pay period, compensation for actual hours worked at the appropriate rate, number of hours worked at each hourly rate, the correct overtime rate, and gross and net wages earned. Employee alleges that these practices were common to other employees. This conduct is in violation of Labor Code sections 226, 226.3, 1174, and 1174.5.

Conclusion

Should the LWDA decline to investigate the violations alleged in this letter, Mr. Fuentes intends to bring a PAGA action, and seek civil penalties on behalf of the LWDA, himself, and other employees. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "John A. Young", is positioned above the printed name.

John A. Young, Esq.
MAHONEY LAW GROUP, APC