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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

BENTURA MENDOZA, on behalf of the
State of California and Aggrieved Employees,

Plaintiff,

vs.

MOVEMENT MORTGAGE, LLC, and
DOES 1 to 100, inclusive,

Defendants.

Case No. **24CV021823**

**COMPLAINT FOR PENALTIES PURSUANT
TO SECTIONS 2699(a) AND (f) OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT**

DEMAND FOR JURY TRIAL

1 Plaintiff Bentura Mendoza (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendant Movement Mortgage, LLC
5 (“Movement Mortgage” or “Defendant”) on behalf of the State of California to collect penalties as a
6 result of Defendant’s violations of California labor law.

7 2. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers
8 employed by Defendant in California.¹

9 3. Plaintiff challenges Defendant’s policies and practices of: (1) mischaracterizing
10 Aggrieved Employees as exempt; (2) failing to pay Aggrieved Employees for all hours worked,
11 including minimum wages and overtime wages; (3) failing to authorize and permit Aggrieved
12 Employees to take compliant meal and rest periods, or premium wages in lieu thereof; (4) failing to
13 provide Aggrieved Employees accurate itemized wage statements; and (5) failing to pay Aggrieved
14 Employees all earned wages upon separation from employment.

15 4. Plaintiff, on behalf of the State of California, seeks to recover penalties and reasonable
16 attorneys’ fees and costs, pursuant to Sections 2699(a) and (f) of the California Labor Code Private
17 Attorneys General Act (“PAGA”).

18 **PARTIES**

19 5. Plaintiff Mendoza is an individual over the age of eighteen, and at all times relevant to
20 this Complaint was a resident of the State of California. Plaintiff worked for Defendant as loan officer
21 from approximately January 2022 to June 25, 2024.

22 6. Plaintiff is informed, believes, and thereon alleges that Movement Mortgage is a
23 Delaware limited liability company, registered to do business in the State of California. Defendant
24 regularly does business throughout California, including Sacramento County. Defendant is a “person”
25 as defined in Labor Code section 18 and California Business and Professions Code section 17201.
26 Defendant is also an “employer” as that term is used in the California Labor Code and the IWC wage

27 ¹ “Aggrieved Employees” has the same meaning as defined in California Labor Code § 2699(c)(1).
28 Although Plaintiff is a former employee, the Aggrieved Employees include current and former
employees. For ease of discussion, the allegations herein are made in the present tense.

1 orders.

2 7. Plaintiff is informed, believes, and thereon alleges that Defendant employs hundreds
3 of hourly, non-exempt workers in California, including in this County.

4 8. In addition to Movement Mortgage, Plaintiff sues fictitiously defendants DOES 1
5 through 100, inclusive, pursuant to *Code of Civil Procedure* §474, because their names, capacities,
6 status, or facts showing them to be liable are not presently known. Plaintiff is informed and believes,
7 and thereon alleges that defendants, and each of them, designated herein as DOES 1 through 100, are
8 responsible in some manner for the occurrences and happenings herein alleged, and that Plaintiff's
9 damages, as herein alleged, were and are the direct and proximate result of the actions of said
10 defendants, and each of them. Plaintiff will amend this complaint to show their true names and
11 capacities, together with appropriate charging language, when such information has been ascertained.

12 **SUBJECT MATTER JURISDICTION AND VENUE**

13 9. Venue is proper in this County pursuant to Cal. Code Civ. Proc. §§ 393 and/or 395.5.
14 Defendant conducts business and employs Aggrieved Employees in this County, and therefore the
15 liability and the cause, or some part of the cause, arose in this County.

16 10. This Court has jurisdictions over Plaintiff's claims for penalties pursuant to the PAGA.
17 The Court also has jurisdiction over Defendant because it is a corporation authorized to do business
18 in the State of California, and because Defendant does in fact does business and employs workers in
19 the State of California.

20 **FACTUAL ALLEGATIONS**

21 11. Movement Mortgage is a national mortgage lender offering a variety of home loan
22 products.

23 12. Movement Mortgage willfully classifies Aggrieved Employees as exempt from
24 California's wage and hour laws when Movement Mortgage knows that Aggrieved Employees are
25 non-exempt employees entitled to the protections of California's labor laws.

26 13. For example, Movement Mortgage classified Plaintiff as exempt, but as Movement
27 Mortgage knows, Plaintiff primarily worked 90 percent of the time from his home office and/or
28 Movement Mortgage's California office. Therefore, he did not qualify for the "outside sales"

1 exemption in California, because he did not perform 50% of his job tasks outside the office setting.
2 Plaintiff also did not qualify for other exemptions.

3 14. By misclassifying Aggrieved Employees as “non-exempt” employees, Movement
4 Mortgage withholds from Aggrieved Employees and denies Aggrieved Employees overtime wages,
5 meal and rest breaks, premium wages for missed and non-compliant meal and rest breaks, itemized
6 wage statements, accurate itemized wage statements, and all earned wages upon separation.

7 15. Defendant does not pay overtime and/or double time for hours worked over 8 hours in
8 a workday, over 12 hours in a workday, over 40 hours in the workweek, and/or for all hours worked
9 in excess of eight on the seventh consecutive day of work in a workweek. Defendant also does not pay
10 earned wages and at least minimum wages for work performed outside of scheduled hours. Aggrieved
11 Employees work frequently over 8 hours in a workday, over 12 hours in a workday, over 40 hours in
12 the workweek, and/or for all hours worked in excess of eight on the seventh consecutive day of work
13 in a workweek, without overtime or double time wages. Aggrieved Employees work frequently after
14 their scheduled work hours, including communications with clients, coworkers, and supervisors via
15 email, phone call, and text messages. Defendant’s failure to timely pay wages is willful and/or
16 intentional.

17 16. Defendant does not provide Aggrieved Employees meal periods and rest periods in
18 accordance with the applicable IWC Order(s), and as required under California law. Defendant also
19 fails to pay Aggrieved Employees one additional hour of pay at their regular rate of compensation for
20 each workday that a compliant meal or rest period is not provided. Defendant’s failure to timely pay
21 earned premium wages for missed and/or noncompliant meal and rest periods is willful and intentional.

22 17. Defendant does not to provide Aggrieved Employees accurate itemized wage
23 statements in accordance with Labor Code §226. Defendant knowingly and intentionally fails to
24 provide a wage statement that omits and/or inaccurate states the gross wages earned, total hours
25 worked, all deductions, net wages earned, and “all applicable hourly rates in effect during the pay
26 period and the corresponding number of hours worked at each hourly rate by the employee.” For
27 example, in Plaintiff’s wage statement, the total gross and net wages earned are inaccurate because
28 they do not include premium wages earned for missed and non-compliant meal and rest periods, and

do not include overtime/double time/and wages earned for work performed outside of scheduled hours. Plaintiff's wage statements do not set forth, at all, total hours worked, or "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee." Aggrieved Employees cannot promptly and easily determine from the wage statement alone their accurate gross wages earned, total hours worked, all deductions, net wages earned, and "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

18. Defendant fails to timely pay Plaintiff and other Aggrieved Employees who have separated from the Company all earned wages (including overtime wages, premium wages for missed and noncompliant meal and rest periods, and wages for work performed outside of scheduled hours) following their separation from the Company. Defendant's failure to timely pay earned wages to Plaintiff and other former Aggrieved Employees was/is willful and intentional.

19. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct has been widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendant's operations in the State of California, regardless of location and assignment in California.

FIRST CAUSE OF ACTION

Penalties Pursuant to Cal. Lab. Code § 2699(a)

(On Behalf of the State of California and Aggrieved Employees)

20. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

21. Cal. Lab. Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and to other current or former employees.

22. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each willful misclassification by Defendant, as alleged above, of Plaintiff and the Aggrieved Employees, in compliance with Cal. Lab. Code § 226.8, in the amounts established by Cal. Lab. Code 226.8.

1 23. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
2 Defendant, as alleged above, to pay all wages to Plaintiff and the Aggrieved Employees: (i) in
3 compliance with Cal. Lab. Code § 204, in the amounts established by Cal. Lab. Code § 210; (ii) in
4 compliance with Cal. Lab. Code §§ 1182.12 and 1197, in the amounts established by Cal. Lab. Code
5 § 1197.1; and (iii) in compliance with Cal. Lab. Code § 510, in the amounts established by Cal. Lab.
6 Code § 558.

7 24. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
8 Defendant, as alleged above, to provide meal and rest periods, or premium wages in lieu, to Plaintiff
9 and the Aggrieved Employees: (i) in compliance with Cal. Lab. Code §§ 226.7 and 512, in the amounts
10 established by Cal. Lab. Code § 558; (ii) or alternatively, in compliance with Cal. Lab. Code § 204, in
11 the amounts established by Cal. Lab. Code § 210.

12 25. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
13 Defendant, as alleged above, to provide accurate itemized wage statements, to Plaintiff and the
14 Aggrieved Employees in compliance with Cal. Lab. Code § 226, in the amounts established by Cal.
15 Lab. Code § 226.3.

16 26. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
17 Defendant, as alleged above, to provide final pay to Plaintiff and the Aggrieved Employees in
18 compliance with Cal. Lab. Code §§ 201 and 202, in the amounts established by Cal. Lab. Code § 256.

19 27. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on August 21, 2024, Plaintiff
20 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to
21 file this claim. On August 21, 2024, Plaintiff mailed Defendant a copy of such notice via certified
22 mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff
23 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.
24 Code § 2699.3(a).

25 28. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
26 Employees, and himself as set forth in Cal. Lab. Code § 2699.

27 29. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for
28 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees

1 and costs as set forth below.

2 30. Wherefore, Plaintiff requests relief as hereinafter provided.

3 **SECOND CAUSE OF ACTION**

4 **Penalties Pursuant to Cal. Lab. Code § 2699(f)**

5 **(On Behalf of the State of California and Aggrieved Employees)**

6 31. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
7 herein.

8 32. Cal. Lab. Code § 2699(f) provides:

9 For all provisions of this code except those for which a civil penalty is specifically
10 provided, there is established a civil penalty for a violation of these provisions, as
11 follows: . . . (2) If, at the time of the alleged violation, the person employs one or more
12 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee
per pay period for the initial violation and two hundred dollars (\$200) for each
aggrieved employee per pay period for each subsequent violation.

13 33. To the extent than any violation alleged herein does not carry penalties under Cal. Lab.
14 Code § 2699(a), or as an alternate theory as appropriate and/or necessary, Plaintiff seeks civil penalties
15 pursuant to Cal. Lab. Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved
16 Employee was aggrieved, in the amounts established by Cal. Lab. Code § 2699(f).

17 34. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and
18 Aggrieved Employees for violations of Cal. Lab. Code provisions including, but not limited to, Cal.
19 Lab. Code §§ 201, 202, 203, 226.7, 1198.

20 35. Plaintiff also seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and
21 Aggrieved Employees for violations of Cal. Lab. Code provisions §§ 204, 226, 226.8, 510, 512,
22 1182.12, 1197, 1198, and any other violation alleged herein on an alternate theory to the extent the
23 violation is determined not to carry penalties under Cal. Lab. Code § 2699(a).

24 36. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on August 21, 2024, Plaintiff
25 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to
26 file this claim. On August 21, 2024, Plaintiff mailed Defendant a copy of such notice via certified
27 mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff
28 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.

1 Code § 2699.3(a).

2 37. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
3 Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

4 38. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for
5 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees
6 and costs as set forth below.

7 39. Wherefore, Plaintiff requests relief as hereinafter provided.

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, Plaintiff prays for relief as follows:

- 10 1. For the Court to declare, adjudge, and decree that Defendant has violated the Cal. Lab.
11 Code as alleged herein;
- 12 2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil
13 penalties provided under the PAGA;
- 14 3. For an order requiring Defendant to display a notice in accordance with Cal. Lab. Code
15 § 226.8;
- 16 4. For injunctive relief, prohibiting Defendant from continuing its policies and practices
17 determined to be violations of the Cal. Lab. Code;
- 18 5. For an award of reasonable attorneys' fees as provided by the Cal. Lab. Code §
19 2699(g)(1); Cal. Code Civ. Proc. § 1021.5; and/or any other applicable law;
- 20 6. For all costs of suit; and
- 21 7. For such other and further relief as this Court deems just and proper.

22 Respectfully Submitted,

23 Date: October 28, 2024

24 

25 Carolyn H. Cottrell
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27 Sandra Acosta Tello
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*Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees*

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Respectfully Submitted,

Date: October 28, 2024



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