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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By B. Ramirez ,Deputy Clerk

Attorneys for Plaintiff
Colleen Cotter, individually, and on behalf of the
State of California and on behalf of other aggrieved employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Colleen Cotter, individually, and on behalf of
the State of California, and on behalf of other
aggrieved employees.

CASE NO. 24CL027293C
[Unlimited Civil Jurisdiction]

Plaintiff,

vs.

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ:**

EF International Language Schools, Inc.; and
DOES 1 through 100, inclusive,

1. Private Attorney General's Act Violation
Cal. Lab. C. § 2698, *et seq.*

Defendants.

COMES NOW Plaintiff Colleen Cotter ("Plaintiff"), on behalf of the people of the State of California and on behalf of the "Aggrieved Employees," acting as a private attorney general under the Labor Code's Private Attorney General Act of 2004, § 2699, *et seq.* ("PAGA"), allege, on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

INTRODUCTION

1. This action is brought pursuant to PAGA, California *Labor Code* sections 2698, *et seq.* "Aggrieved Employees" is defined for all purposes herein as all current and/or former hourly paid or non-exempt employees of Defendants EF International Language Schools, Inc., and Does 1 through 100, inclusive ("Defendants") within the relevant statutory period.

PARTIES

2. Plaintiff Colleen Cotter, at all times relevant to this action, resided in San Diego County, California.

3. Plaintiff is informed and believes, and thereon alleges, that Defendant EF International Language Schools, Inc. is a California corporation with its principal place of business in San Diego County, California.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate or otherwise, of the Defendants sued herein under fictitious names Does 1 through 100, inclusive, and for that reason sues said Defendants, and each of them, by such fictitious names. Plaintiff is informed, believes, and thereupon alleges that each of the Defendants Does 1 through 100, inclusive, is and was in some manner responsible for, participated in, or contributed to the matters and things of which Plaintiff complains herein, and in some fashion has legal responsibility, therefore. When Plaintiff ascertains the names and capacities of the fictitiously named Defendants Does 1 through 100, inclusive, Plaintiff will seek leave to amend this Complaint to set forth such facts.

5. Plaintiff is informed, believes, and there upon alleges that each Defendant is, and at all times relevant herein was, the agent of his, her, or its co-Defendants, and in committing the acts alleged herein, was acting within the scope of his, her, or its authority as such agent, and with the knowledge, permission, and consent of his, her, or its co-Defendants.

6. Defendants, jointly and severally, employed Plaintiff and other Aggrieved Employees as hourly-paid, nonexempt employees in the State of California. Defendants had the authority to hire and terminate Plaintiff and other Aggrieved Employees, to set work rules and conditions governing Plaintiff's and other Aggrieved Employees' employment, and to supervise Plaintiff's and other Aggrieved Employees' daily employment activities. Defendants directly hired and paid wages and benefits to Plaintiff and other Aggrieved Employees. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's and other Aggrieved Employees' employment for them to be a joint employer.

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1 **JURISDICTION & VENUE**

2 7. This action is brought pursuant to the California Private Attorneys General Act
3 (“PAGA”), California *Labor Code* sections 2698, *et seq.* The penalties and other remedies sought by
4 Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established
5 according to proof at trial. It is believed that the total sum owed to Plaintiff and other Aggrieved
6 Employees is less than \$5,000,000.00, based upon the anticipated number of Aggrieved Employees
7 and the amount in controversy for each member of the Aggrieved Employees.

8 8. This Court has jurisdiction over this action and the matters alleged herein pursuant to
9 the grant of original jurisdiction set forth in Article VI, Section 10 of the California Constitution. The
10 statutes under which this action is brought do not specify any other basis for jurisdiction.

11 9. Additionally, this Court has jurisdiction over Defendants because, upon information
12 and belief, Defendants are either citizens of California, have sufficient minimum contacts in
13 California, or otherwise intentionally availed themselves of the California market so as to render the
14 exercise of jurisdiction over them by this Court consistent with traditional notions of fair play and
15 substantial justice.

16 10. Venue is proper in this Court because, upon information and belief, the named
17 Defendants reside, transact business, and/or have offices in this county, and/or the acts or omissions
18 alleged herein took place in this county.

19 **GENERAL ALLEGATIONS**

20 11. Plaintiff is informed and believes, and based thereon alleges, that Defendants are in the
21 business of owning, operating, and providing educational services throughout the State of California,
22 including in the County of San Diego.

23 12. On information and belief, beginning on or around June 2023, and lasting until her
24 termination on or around April 2024, Plaintiff was employed by Defendants as an instructor. At all
25 times relevant to this action, Defendants failed to properly compile, account for, and pay Plaintiff for
26 the hours she worked due to the following uniform practices:

- 27 a. **Rounding:** Defendants, as a matter of established company policy and procedure,
28 administered a practice of rounding the actual time worked and recorded by Plaintiff

1 and Aggrieved Employees, always to the benefit of Defendants, so that during the
2 course of their employment, Plaintiff and Aggrieved Employees were paid less than
3 they would have been paid had they been paid for actual recorded time rather than
4 “rounded” time. Defendant’s rounding practices applied to Plaintiff’s alleged meal and
5 rest periods as well. As a result, Plaintiff forfeited minimum wage and overtime
6 compensation by from time to time working without her time being accurately recorded
7 and without compensation at the applicable minimum, straight, and overtime rates.
8 Defendants’ policy and practice not to pay Plaintiff for all time worked is evidenced by
9 Defendants’ business records;

- 10 b. **Failure to Pay All Wages:** Defendants failed to pay all wages (including minimum,
11 straight, and overtime wages) to Plaintiff and other Aggrieved Employees in violation
12 of Labor Code Sections 246, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, and the
13 applicable IWC Wage Order;
- 14 c. **Failure to Provide Meal Breaks:** Defendants failed to pay premium wages to
15 Aggrieved Employees who were denied proper meal periods, in violation of Labor
16 Code Sections 226.7, 512, 558, and the applicable IWC Wage Order 5. Aggrieved
17 Employees were routinely denied, and not authorized to take, a proper, timely,
18 uninterrupted, thirty (30) minute meal period for every shift worked that exceeded five
19 (5) hours, or a second, proper, timely, uninterrupted, 30-minute meal period for every
20 shift worked that exceeded ten (10) hours, but were not paid premium wages of one (1)
21 hour at their regular rate of pay for each missed, short, or interrupted meal period;
- 22 d. **Failure to Provide Rest Breaks:** Defendants failed to pay premium wages to
23 Aggrieved Employees who were denied proper rest periods, in violation of Labor Code
24 Sections 226.7, 558, and the applicable IWC Wage Order 5. Aggrieved Employees
25 were routinely unable, and not authorized, to take ten (10) minute uninterrupted rest
26 periods for every four (4) hours worked but were not paid premium wages of one (1)
27 hour at their regular rate of pay for each missed, short, or interrupted rest period;
- 28 e. **Failure to Reimburse Necessary Business-Related Expenses and Costs:** Aggrieved

1 Employees were required to use their personal cell phones for work related
2 communications with Defendants. Aggrieved employees were not reimbursed for the
3 use of these devices. Defendants' failure to reimburse Plaintiff and the other Aggrieved
4 Employees for necessary business-related expenses and costs constitutes unlawful
5 and/or unfair activity prohibited by California Labor Code sections 2800 and 2802;

6 f. **Wage Statements:** Defendants did not provide accurate and properly itemized wage
7 statements to Aggrieved Employees. To the extent wage statements were provided,
8 among other deficiencies, the wage statements did not accurately reflect gross wages
9 earned, all hours worked, all deductions, net wages earned, and the proper applicable
10 hourly rate of the employee. Defendants' failure to keep complete and accurate payroll
11 records relating to Plaintiff and the other Aggrieved Employees constitutes unlawful
12 and/or unfair activity prohibited by California Labor Code section 1174(d).

13 13. By reason of this conduct applicable to Plaintiff and Aggrieved Employees, Defendants
14 engaged in a company-wide policy and procedure which fails to accurately calculate and record all
15 missed meal and rest periods and failed to pay all minimum, straight, and overtime wages due to
16 Plaintiff and Aggrieved Employees. The proper recording, and provision, of these employees' missed
17 meal and rest breaks is the Defendant's burden. As a result of Defendant's intentional disregard of
18 the obligation to meet this burden, Defendants failed to properly calculate and/or pay all required
19 compensation for work performed by the Aggrieved Employees and violated the California Labor
20 Code and regulations promulgated thereunder as herein alleged.

21 14. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
22 should have known that Plaintiff and the other Aggrieved Employees were entitled to receive certain
23 minimum, straight time wages, and overtime compensation, and that they were not receiving proper
24 minimum, straight and overtime compensation.

25 15. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
26 Defendants' officers, directors and/or managing agents who were authorized and empowered to make
27 decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said
28 managing agents and individuals was therefore undertaken on behalf of Defendants who further had

1 advanced knowledge of the actions and conduct of said individuals whose actions and conduct were
2 ratified, authorized, and approved by managing agents whose precise identities are unknown to
3 Plaintiff at this time and are therefore identified and designated herein as DOES 1 through 100,
4 inclusive.

5 16. All of the conduct and violations alleged herein occurred during the relevant PAGA
6 Period. To the extent that any of the conduct and violations alleged herein did not affect Plaintiff
7 during the PAGA Period, Plaintiff seek penalties for those violations that affected other Aggrieved
8 Employees pursuant to *Johnson v. Maxim Healthcare Services, Inc.* (2021) 66 Cal.App.5th 924, and
9 *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504.

10 **PAGA ALLEGATIONS**

11 17. At all times herein set forth, PAGA was applicable to Plaintiff's employment with
12 Defendants.

13 18. At all times herein set forth, PAGA provides that any provision of law under the
14 California Labor Code that provides for a civil penalty to be assessed and collected by the California
15 Labor & Workforce Development Agency ("LWDA") for Labor Code violations may, as an
16 alternative, be recovered through a civil action brought by an Aggrieved Employee on behalf of
17 himself/herself and other current or former employees pursuant to procedures outlined in California
18 *Labor Code* section 2699.3.

19 19. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved
20 employee," who is any person that was employed by the alleged violator and against whom one (1) or
21 more of the alleged violations was committed.

22 20. Plaintiff was employed by Defendants, and the alleged violation was committed against
23 her during her time of employment, and she is therefore an Aggrieved Employee. Plaintiff and other
24 employees of Defendants are "Aggrieved Employees" as defined by California *Labor Code* section
25 2699(c) in that they are all current or former employees of Defendants, and one (1) or more of the
26 alleged violations were committed against them.

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1 21. Pursuant to California *Labor Code* sections 2699.3 and 2699.5, an Aggrieved
2 Employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
3 requirements have been met:

4 a. The Aggrieved Employee shall give written notice by online submission (hereinafter
5 “Employee’s Notice”) to the LWDA, and by U.S. Certified Mail to the employer of the
6 specific provisions of the California Labor Code alleged to have been violated,
7 including the facts and theories to support the alleged violations.

8 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the
9 Aggrieved Employee by certified mail that it does not intend to investigate the alleged
10 violation within sixty (60) calendar days of the postmark date of the Employee’s
11 Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided
12 within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the
13 Aggrieved Employee may commence a civil action pursuant to California *Labor Code*
14 section 2699 to recover civil penalties in addition to any other penalties to which the
15 employee may be entitled.

16 22. On or around August 14, 2024, Plaintiff provided written notice by online submission
17 to the LWDA and by U.S. Certified Mail to Defendants of the specific provisions of the California
18 Labor Code alleged to have been violated, including the facts and theories to support the alleged
19 violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the date
20 of Plaintiff’s notice.

21 23. Therefore, Plaintiff has satisfied the administrative prerequisites under California
22 Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other
23 remedies, for violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 246,
24 248.5, 510, 512, 558, 1147, 1194, 1194.2, 1197.1, 1198, 3550 – 3553, 3700.5, and Wage Order 5.

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1 **FIRST CAUSE OF ACTION**

2 **California Private Attorneys General Act, Labor Code § 2699, *et seq.***

3 **(Against all Defendants)**

4 24. Plaintiff refers to and incorporates herein by reference all of the above paragraphs as
5 though fully set forth herein.

6 25. Under the Private Attorneys General Act of 2004, Cal. Labor Code §§ 2698-2699.5, an
7 Aggrieved Employee, on behalf of himself or herself and other current or former employees, may
8 recover penalties under any provision of the Cal. Labor Code that provides for civil penalties. These
9 penalties are in addition to any other relief available under the California Labor Code.

10 26. As set forth above, Defendants have committed numerous violations for which the
11 Labor Code provides for penalties, including violations of California Labor Code sections 201, 202,
12 203, 204, 210, 226, 226.7, 246, 248.5, 510, 512, 558, 1147, 1194, 1194.2, 1197.1, 1198, 3550 – 3553,
13 3700.5, and Wage Order 5.

14 27. Plaintiff and the other hourly-paid or non-exempt employees are “Aggrieved
15 Employees” as defined by California Labor Code section 2699(c) in that they are all current or former
16 employees of Defendants, and one (1) or more of the alleged violations were committed against them.

17 26. Plaintiff has provided written notice by certified mail to the LWDA and to Defendants
18 of the legal claims and theories of this case. Sixty-five (65) days have passed since the postmark date
19 of the written notice to the LWDA, and Plaintiff has not received notification from the LWDA that it
20 intends to investigate the alleged violations. Accordingly, Plaintiff has exhausted the administrative
21 remedies as required by California Labor Code § 2699.3.

22 27. As a direct result of Defendants’ conduct as described, Plaintiff is entitled to recover,
23 on her own behalf and on behalf of others similarly situated, the maximum civil penalties permitted
24 by the Private Attorneys General Act from Defendants for all violations of Labor Code §§ 200, 204,
25 226, 226.7, 510, 512, 1174, 1198 and 2802 as well as reasonable attorney’s fees and costs.

26 28. Defendant’s conduct of violating the California Labor Code constitutes violations of
27 PAGA. Therefore, Plaintiff requests penalties against Defendant under the provisions of PAGA
28 section 2699(f).

29. The proper measure of damages and penalties under PAGA is all Aggrieved Employees, whether a party to this action or not. Further, this claim needs no certification to proceed with class-wide recovery. *See Arias v. Superior Court* (2009) 46 Cal. 4th 969, 970-975.

30. Further, as a direct and proximate result of the conduct of Defendants, as set forth above, Plaintiff was forced to incur substantial attorney's fees and costs which are recoverable under California Labor Code Section 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all Aggrieved Employees, pray for an award and judgment against Defendants, jointly and severally, as follows:

1. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Code § 2699;

2. For preliminary and permanent injunctive relief enjoining Defendants from violating the relevant provisions of the California Labor Code and IWC Wage Order No. 5-2001 and from engaging in the unlawful business practices complained of herein;

3. For an award of interest, including prejudgment interest, at the legal rate;

4. For an award of reasonable attorneys' fees and costs on the applicable causes of action pursuant to California Labor Code §§ 226, 1194, 2699, and 2802, California Civil Code 1021.5, and any other applicable provisions providing for attorneys' fees and costs;

5. For costs of suit incurred; *and*

6. For such other and further relief as the Court may deem just and appropriate.

DATED: December 9, 2024

STARPOINT, LC

By:

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Attorneys for Plaintiff Colleen Cotter, individually,
and on behalf of other Aggrieved Employees