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ELECTRONICALLY FILED
Superior Court of California
County of Sacramento
10/07/2024
By: M. Chapman Deputy

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

RABIEH NOURI, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

ALDO U.S., INC., a Delaware Corporation; and
DOES 1-50, inclusive.

Defendants.

CASE NO.: **24CV020377**

**PAGA REPRESENTATIVE ACTION
COMPLAINT:**

(1) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*)**

UNLIMITED CIVIL CASE

1 Plaintiff Rabieh Nouri (“Plaintiff”), on behalf of the State of California, hereby brings this
2 PAGA Representative Action Complaint (“Complaint”) against Defendant Aldo U.S., Inc.
3 (“Defendant”) and DOES 1 to 50 (collectively “Defendants”) and each of them, as follows:

4 **INTRODUCTION**

5 1. Defendant is a multinational premium retailer specializing in selling shoes and
6 accessories to customers across California and around the world.

7 2. Plaintiff brings this PAGA representative action solely on behalf of the State of
8 California against Defendant for alleged violations of the California Labor Code.

9 3. **Plaintiff does not seek to recover anything other than penalties as permitted by**
10 **California Labor Code § 2699.**

11 4. As set forth below, Plaintiff alleges that Defendant failed to pay all overtime
12 compensation and sick pay wages by incorrectly calculating the “regular rate of pay.” Moreover,
13 Plaintiff alleges that Defendant’s meal and rest period policies and practices failed to allow and permit
14 aggrieved employees to take all compliant and timely meal and rest periods or pay premium wages
15 at the “regular rate of pay” in lieu thereof. Plaintiff further alleges that Defendant failed to provide
16 aggrieved employees with accurate written itemized wage statements in violation of Labor Code §
17 226(a), failed to reimburse all necessary business expenses incurred, and failed to timely pay all final
18 wages upon separation of employment in violation of Labor Code §§ 201-203.

19 **JURISDICTION**

20 5. Plaintiff, on behalf of the State of California, brings this representative action pursuant
21 to Labor Code § 2699, *et seq.*, seeking penalties for Defendant’s violation of California Labor Code
22 §§ 201-204, 210, 226(a), 226(a)(6), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4,
23 1199, 2802-2804, and applicable Industrial Welfare Commission Wage Orders (“Wage Orders”).

24 6. Based upon the foregoing, Plaintiff and all aggrieved employees are aggrieved
25 employees within the meaning of Labor Code §2699, *et seq.*

26 7. This Court has jurisdiction over Defendant because, upon information and belief,
27 Defendant has sufficient minimum contacts in California, or otherwise intentionally avail themselves
28 to the State of California so as to render the exercise of jurisdiction over them by California courts

1 consistent with the traditional notions of fair play and substantial justice.

2 **VENUE**

3 8. Venue is proper in this judicial district pursuant to California Code of Civil Procedure
4 §§ 395(a) and 395.5, as most of the acts and omissions complained of herein occurred in the County
5 of Sacramento. Defendant owns, maintains offices, transacts business, has an agent or agents within
6 the County of Sacramento, and/or otherwise are found within the County of Sacramento, and
7 Defendant is within the jurisdiction of this Court for purposes of service of process.

8 **PARTIES**

9 9. At all relevant times herein, Plaintiff, who is over 18, was and currently is a California
10 resident residing in the State of California.

11 10. Plaintiff is informed, believes, and alleges that Defendants are authorized to do
12 business within the County of Sacramento and is and/or was the legal employer of Plaintiff and the
13 aggrieved employees during the applicable statutory periods. Plaintiff was, and is, a victim of
14 Defendants' policies and/or practices complained of herein and has been deprived of the rights
15 guaranteed to her by California Labor Code §§ 201-203, 204, 210, 226, 226(a), 226(e), 226.3, 226.7,
16 227.3, 246, 510, 512, 516, 1174, 1174.4, 1199, 2802-2804, and the California Business and
17 Professions Code § 17200 *et seq.*, and applicable Wage Orders.

18 11. Plaintiff is informed and believes, and based thereon alleges, that during the four years
19 preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to
20 do) business in the State of California, County of Sacramento.

21 12. Plaintiff does not know the true names or capacities, whether individual, partner, or
22 corporate, of the Defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
23 Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
24 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and
25 believes, and thereon alleges, that each of said fictitious Defendants, whether individual, partners, or
26 corporate, were responsible in some manner for the acts and omissions alleged herein, and
27 proximately caused Plaintiff and the aggrieved employees to be subject to the unlawful employment
28 practices alleged herein.

1 13. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
2 herein, Defendants were and are the employers of Plaintiff and the aggrieved employees. At all times
3 herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to
4 have been done by the named Defendants. Furthermore, the Defendants, and each of them, were the
5 agents, servants, and employees of each and every one of the other Defendants, as well as the agents
6 of all Defendants, and at all times herein mentioned, were acting within the course and scope of said
7 agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise
8 ratified each and every one of the acts or omissions complained of herein.

9 14. At all times mentioned herein, Defendants, and each of them, were members of and
10 engaged in a joint venture, partnership, and common enterprise and acting within the course and
11 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
12 alleges that all Defendants were joint employers for all purposes of Plaintiff and aggrieved
13 employees.

14 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

15 15. Defendant is a multinational premium retailer specializing in selling shoes and
16 accessories to customers across California and around the world.

17 16. Plaintiff was employed by Defendant as a non-exempt employee with the title of
18 “Store Manager” out of its Sacramento, California location, beginning in February 2023, until her
19 separation from employment on July 25, 2024. Plaintiff and other aggrieved employees (including,
20 but not limited to, Assistant Manager, Retail Assistant, Stock Manager, Store Manager, Associate
21 Manager, Sales Lead, Brand Representative, Stylist, Warehouse Associate, and all other non-exempt
22 positions) were responsible for all aspects of Defendant’s business in the State of California.

23 17. However, in these roles, Plaintiff and aggrieved employees were often not afforded all
24 protections and rights conferred under the California Labor Code and applicable Wage Orders.

25 18. At all relevant times, Plaintiff and other aggrieved employees regularly worked
26 various shifts, many of which were more than 8.0 hours in a workday and 40.0 hours in a workweek.
27 Plaintiff alleges that other aggrieved employees were also subjected to the same policies, procedures,
28 practices, working conditions, and corresponding wage and hour violations to which she was

1 subjected during her employment.

2 19. First, at all relevant times, Plaintiff and other aggrieved employees worked regular
3 shifts that lasted longer than 8.0 hours in a workday and resulted in aggrieved employees regularly
4 working more than 40 hours in a workweek. However, Defendant uniformly failed to properly
5 calculate and pay overtime wages at the proper legal rate due to Defendant's failure to include all
6 forms of compensation/remuneration, including, but not limited to, shift pay, commissions,
7 incentives, stipends, non-discretionary bonuses, and all other forms of remuneration in calculating
8 the "regular rate of pay" for purposes of overtime compensation.

9 20. Under the California Labor Code (as well as the FLSA), courts have consistently held
10 that regularly paid non-discretionary bonuses (and other forms of pay) must be included in
11 determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v.*
12 *The Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency
13 bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc.* 435 F.
14 Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgment to Plaintiff under California
15 and federal law on the grounds that Defendant improperly calculated overtime by excluding annual
16 bonuses paid to employees from the "regular rate of compensation"]; see *Walling v. Youngerman-*
17 *Reynolds Hardwood Co.* (1945) 65 S.Ct. 1242, 1245. ("The regular rate by its very nature must reflect
18 all payments which the parties have agreed shall be received regularly during the workweek,
19 exclusive of overtime payments. It is not an arbitrary label chosen by the parties but an actual fact.
20 Once the parties have decided upon the amount of wages and the mode of payment, the determination
21 of the regular rate becomes a matter of mathematical computation, the result of which is unaffected
22 by any designation of a contrary 'regular rate' in the contracts."); see also 29 CFR §§ 778.110
23 ("production bonus") and 778.111 ("piece-rate").

24 21. Labor Code § 510 requires an employer to compensate an employee who works more
25 than eight (8.0) hours in one workday, forty (40.0) hours in a workweek, and for the first eight (8.0)
26 hours worked on the seventh consecutive day, no less than one and one-half times (1 1/2) the regular
27 rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less
28 than twice the regular rate of pay when an employee works more than twelve (12.0) hours in a

1 workday or more than eight (8.0) hours on the seventh consecutive day of work. Pursuant to Section
2 3 of the applicable Wage Orders, aggrieved employees shall not be employed more than eight (8.0)
3 hours in any workday or more than 40.0 hours in any workweek unless the employee receives one
4 and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in
5 the workweek.

6 22. By their policy of requiring Plaintiff and the other aggrieved employees to work in
7 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating
8 them at the lawful rate of one-half (1 1/2) their "regular rate of pay," Defendant willfully violated the
9 provisions of Labor Code § 510 and the applicable Wage Orders.

10 23. Accordingly, through PAGA and to the extent permitted by law, Plaintiff and other
11 aggrieved employees are entitled to recover penalties for violations of Labor Code §§ 204, 210, 510,
12 1194, 1197.1, 1199 1197.1 under Labor Code § 1197.1, 1199, or Labor Code § 2699(f)(2), and
13 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

14 24. Furthermore, at all relevant times, Defendant also failed in its obligation to provide
15 Plaintiff and other aggrieved employees the legally required paid sick days at the legal rate pursuant
16 to Labor Code §§ 246(a),(b), which requires that "[a]n employee who, on or after July 1, 2015, works
17 in California for the same employer for 30 or more days within a year from the commencement of
18 employment is entitled to paid sick days. . . at the rate of not less than one hour per every 30 hours
19 worked, beginning at the commencement of employment." Labor Code § 246(l)(1) provides that paid
20 sick time for aggrieved employees must be "calculated in the same manner as the regular rate of pay
21 for the workweek in which the employee uses paid sick time, whether or not the employee actually
22 works overtime in that workweek."

23 25. Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated
24 by dividing the employee's total wages, not including overtime premium pay, by the employee's total
25 hours worked in the full pay periods of the prior 90 days of employment." Finally, Labor Code §246(i)
26 requires employers to "provide an employee with written notice that sets forth the amount of paid
27 sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either
28 the employee's itemized wage statement described in Section 226 or in a separate writing provided

1 on the designated pay date with the employee's payment of wages."

2 26. Here, at all relevant times, Defendant failed in its obligation to provide Plaintiff and
3 other aggrieved employees the legally required paid sick days at the legal rate, including all forms of
4 compensation, pursuant to Labor Code §§ 246(a), (b). As such, Defendant paid sick time below the
5 "regular rate of pay" as required by Labor Code §§ 246(l) (1-2). Based on the foregoing Labor Code
6 violations, Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code
7 § 2699(f)(2), and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

8 27. Moreover, at all relevant times, Plaintiff and other aggrieved employees were denied
9 compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to
10 Defendant's uniform meal period policies/practices, operational requirements, staffing issues, and
11 work demands, Plaintiff and other aggrieved employees often could not take timely and uninterrupted
12 net 30-minute first meal periods before the end of the fifth hour of work. Further, when Plaintiff and
13 other aggrieved employees worked more than 10.0 hours in a shift, they were not always allowed and
14 permitted to take a mandated second meal period before the end of the tenth hour of work in violation
15 of the Labor Code and applicable Wage Orders. Indeed, Plaintiff's and other aggrieved employees'
16 meal periods were often interrupted and/or lasted fewer than 30 minutes due to Defendant's meal
17 period policies/procedures, operational requirements, and work demands.

18 28. In addition, for each missed or non-compliant meal period, Defendant failed and
19 continues to fail to maintain a mechanism by which aggrieved employees were paid meal period
20 premiums at the "regular rate of pay" pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) and
21 Labor Code § 226.7.

22 29. Accordingly, due to Defendant's uniform meal period practices, aggrieved employees
23 were also regularly denied legally compliant meal periods in violation of Labor Code §§ 226.7, 510,
24 516, and applicable Wage Orders, and would be entitled to penalties under Labor Code § 2698 *et seq.*

25 30. Next, at all relevant times, Plaintiff and other aggrieved employees were not provided
26 with all 10-minute rest periods for every four hours worked, or a major fraction thereof, due to
27 Defendant's uniform rest period policies/practices, operational requirements, staffing issues, and
28 work demands. As a result, Plaintiff and other aggrieved employees were and are often unable to take

1 a net 10-minute duty-free rest period for every major fraction of four hours worked. This includes a
2 second rest period for shifts in excess of six hours and a third rest period for shifts in excess of 10.0
3 hours in a workday.

4 31. By not relieving all aggrieved employees of all duties during rest periods, Defendant
5 failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc.* (2016)
6 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve employees of all
7 duties and relinquish control over how employees spend their time.”] (Emphasis added). In *Augustus*,
8 the California Supreme Court expressly rejected the employer’s assertion that it could provide an on-
9 duty rest period to employees who worked as security guards and further explained: “that employers
10 [must] relinquish any control over how employees spend their break time and relieve their employees
11 of all duties.” *Id.* at 273. Each time aggrieved employees could not take a compliant rest period,
12 Defendant failed and continues to fail to adequately pay rest period premium payments at the “regular
13 rate of pay” as required by Labor Code § 226.7.

14 32. Accordingly, due to Defendant’s uniform rest period policies/practices, aggrieved
15 employees were regularly denied legally compliant rest breaks in violation of Labor Code §§ 226.7,
16 512, and applicable Wage Orders, and would be entitled to penalties under Labor Code § 2698 *et seq.*

17 33. As a result of Defendant’s failure to pay Plaintiff and other aggrieved employees for
18 all overtime wages and sick pay wages at the “regular rate of pay,” and Defendant’s failure to pay all
19 meal and rest period premiums at the “regular rate of pay,” Defendant issued wage statements which
20 failed to identify the gross wages earned accurately, the total hours worked, the net wages earned,
21 and the correct corresponding number of hours worked at each hourly rate, in violation of Labor Code
22 § 226(a)(1, 2, 5, and 9).

23 34. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
24 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
25 employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for
26 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
27 deduction statement or fails to keep the required in subdivision (a) of Section 226.”
28

35. Thus, for the violations of Labor Code section 226 described above, Plaintiff and other aggrieved employees may also recover Labor Code § 226.3 penalties for Defendant's violations of Labor Code § 226(a). Consequently, because Defendant failed to comply with Labor Code § 226(a), Plaintiff and other aggrieved employees would be entitled to recover penalties under Labor Code § 226(e) and/or 2698 *et seq.*

36. Furthermore, because Defendant failed to pay all overtime, sick pay wages, and meal and rest period premiums at the “regular rate of pay,” Defendant also failed and continues to fail to pay Plaintiff and other aggrieved employees all wages owed at their time of separation from employment in violation of Labor Code §§ 201-203. Thus, aggrieved employees would be entitled to recover waiting time penalties under Labor Code §§ 201-203 and/or 2698 *et seq.*

37. Finally, at all relevant times, Defendant required Plaintiff and other aggrieved employees to incur necessary expenses for work-related purposes but did not reimburse aggrieved employees adequately for these necessary expenditures in violation of Labor Code §§ 2802-2804. Here, Defendant uniformly failed to reimburse aggrieved employees for the necessary costs incurred in discharging their duties, including, but not limited to, the cost for cell phone use, mileage, and other necessary costs for business purposes. (*See Cochran v. Schwan's Home Service, Inc.*, (2014) 228 Cal.App.4th 1137, 1144 ["[i]f an employee is required to make work-related calls on a personal cell phone, then he or she is incurring an expense for the purposes of section 2802. It does not matter whether the phone bill is paid for by a third person or at all...To show liability under section 2802, an employee needs only to show that he or she was required to use a personal cell phone to make work-related calls, and he or she was not reimbursed"].). Accordingly, due to Defendant's uniform failure to adequately reimburse for necessary business expenditures in violation of Labor Code §§ 2802-2804 and applicable Wage Orders. Plaintiff and other aggrieved employees would be entitled to civil penalties under Labor Code § 2698 *et seq.*

FIRST CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(Plaintiff and Similarly Aggrieved Employees Against All Defendants)

1 38. Plaintiff re-alleges and incorporates by reference each and every allegation outlined
2 in the preceding paragraphs.

3 39. Defendant has committed several Labor Code violations against Plaintiff and other
4 similarly aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code
5 § 2698 *et seq.*, acting on behalf of the State of California, brings this representative action against
6 Defendant to recover the civil penalties due to Plaintiff, other similarly aggrieved employees, and the
7 State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not
8 limited to (1) \$100 for each initial violation and \$200 for each subsequent violation per employee per
9 pay period for those violations of the Labor Code for which no civil penalty is specifically provided
10 based on the following Labor Code violations:

11 a) Defendant’s failure to pay all overtime wages at the “regular rate of pay” because
12 Defendant failed to include all forms of compensation, including, but not limited to, shift pay,
13 commissions, incentives, stipends, non-discretionary bonuses, and other forms of remuneration;

14 b) Defendant’s failure to pay all sick pay at the “regular rate of pay”;

15 c) Defendant’s failure to allow and permit legally compliant meal periods or compensation
16 at the “regular rate of pay” in lieu thereof;

17 d) Defendant’s failure to allow and permit legally compliant rest periods or compensation
18 at the “regular rate of pay” in lieu thereof;

19 e) Defendant’s failure to furnish legally compliant wage statements pursuant to Labor
20 Code § 226(a);

21 f) Defendant’s failure to timely pay final wages to aggrieved employees at the time of
22 separation from employment was unlawful; and

23 g) Defendant’s failure to reimburse aggrieved employees for all necessary business
24 expenses in violation of Labor Code §§ 2802-2804.

25 40. On or about August 2, 2024, Plaintiff notified Defendant Aldo U.S., Inc.
26 (“Defendant”) via certified mail and the California Labor and Workforce Development Agency
27 (“LWDA”) via its website of Defendant’s violations of the California Labor Code § 2698 *et seq.*
28 with respect to violations of the California Labor Code identified in Paragraph 39 (a)-(g). Now that

1 sixty-five days (65) have passed from Plaintiff notifying Defendant of these violations, Plaintiff has
2 exhausted her administrative requirements for bringing a claim under the Private Attorneys General
3 Act with respect to these violations.

4 41. Plaintiff was compelled to retain the services of counsel to file this court action to
5 protect her interests and the interests of other similarly aggrieved employees and to assess and collect
6 the civil penalties owed by Defendant. Plaintiff has, therefore, incurred attorneys' fees and costs,
7 which she is entitled to receive under California Labor Code § 2699.

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, Plaintiff prays for judgment for herself and all others on whose behalf this
10 suit is brought against Defendant, as follows:

11 1. Upon the First Cause of Action, for civil penalties due to similarly aggrieved
12 employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f)
13 including, but not limited to: (1) \$100 for each initial violation and \$200 for each subsequent violation
14 per employee per pay period for those violations of the Labor Code for which no civil penalty is
15 specifically provided under the Labor Code;

16 2. For attorneys' fees and costs as provided by Labor Code § 2698 *et seq.*, and Code
17 of Civil Procedure §1021.5; and

18 3. For such other relief that the Court may deem just and proper.

19
20 Dated: October 7, 2024

FALAKASSA LAW, P.C.
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21
22
23 By: _____

24 Joshua Falakassa, Esq.
25 Mehrdad Bokhour, Esq.
26 Attorneys for Plaintiff and the Aggrieved Employees
27
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