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10 *Attorneys for Plaintiff, on behalf of the State of*
11 *California and Aggrieved Employees*

12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 CANDICE DAVIS, on behalf of the State of
California and Aggrieved Employees,

15 *Plaintiff,*

16 vs.

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

18 *Defendants.*
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County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By G. Cordon, Deputy Clerk

Case No. **25STCV00432**

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

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff Candice Davis (“Plaintiff”) brings this enforcement action on behalf of the State of California pursuant to Sections 2699(a) and (f) of the California Labor Code Private Attorneys General Act (“PAGA”).

2. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers employed by Defendant Movement Mortgage, LLC (“Movement Mortgage” or “Defendant”) in California.¹

3. Defendant’s employment policies and practices include mischaracterizing Aggrieved Employees as exempt. Because Defendant does not properly characterize Aggrieved Employees as exempt, these employees are not provided the protections and rights they are entitled to under California’s labor laws, including minimum/regular/overtime wages, meal and rest periods, business reimbursements, and accurate itemized wage statements.

4. Plaintiff, on behalf of the State of California, seeks civil penalties from Defendant for the State of California and Aggrieved Employees pursuant to the PAGA.

PARTIES

5. Plaintiff Davis is an individual over the age of eighteen, and at all times relevant to this Complaint was a resident of the State of California. Plaintiff has worked for Defendant as Branch Manager since approximately September 2015 to the present.

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

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

¹ “Aggrieved Employees” has the same meaning as defined in California Labor Code § 2699(c)(1). Although Plaintiff is a current employee, the Aggrieved Employees include current and former employees.

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

9 **SUBJECT MATTER JURISDICTION AND VENUE**

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

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

17 **FACTUAL ALLEGATIONS**

18 11. Movement Mortgage is a national mortgage lender offering a variety of home loan
19 products, including conventional loans and refinancing options.

20 12. Movement Mortgage willfully misclassifies Plaintiff and Aggrieved Employees as
21 exempt from California's wage and hour laws when Movement Mortgage knows that Aggrieved
22 Employees are non-exempt employees entitled to the protections of California's labor laws.

23 13. Pursuant to Defendant's uniform corporate policy, Plaintiff and Aggrieved Employees
24 are paid a set salary or "draw," regardless of the hours actually worked. Plaintiff and Aggrieved
25 Employees are also paid bonuses and other pay that correlates to her results and performance.

26 14. As a practical matter, Defendant does not pay Plaintiff and Aggrieved Employees a
27 base salary at all. What little salary Defendant does provide to Plaintiff and Aggrieved Employees is
28 not treated as salary, but instead, is treated as a "draw" that is later clawed back from Plaintiff's

1 variable pay. This too is unlawful and invalidates exemptions. To qualify for the exemptions, the salary
2 paid must in fact be a salary – not an advance on variable pay.

3 15. Defendant has attempted to claim the Administrative Exemption for Plaintiff Davis.
4 However, Plaintiff is not paid the requisite minimum salary to qualify for this exemption or other
5 exemptions under California law. Plaintiff's base salary is not at least two times California's minimum
6 wage. Going back to at least September of 2019, Plaintiff's base salary was approximately \$2,600 a
7 month.

8 16. Similarly, Defendant has and continues to willfully, improperly classify Aggrieved
9 Employees as "exempt" even though Defendant knows they do not qualify for the exemptions.

10 17. By misclassifying Plaintiff and Aggrieved Employees as exempt employees,
11 Movement Mortgage withholds from Aggrieved Employees and denies Aggrieved Employees
12 overtime wages, meal and rest breaks, premium wages for missed and non-compliant meal and rest
13 breaks, itemized wage statements, accurate itemized wage statements, and all earned wages upon
14 separation.

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

25 19. Defendant does not provide Aggrieved Employees meal periods and rest periods in
26 accordance with the applicable IWC Order(s), and as required under California law. Defendant also
27 fails to pay Aggrieved Employees one additional hour of pay at their regular rate of compensation for
28 each workday that a compliant meal or rest period is not provided. Defendant's failure to timely pay

earned premium wages for missed and/or noncompliant meal and rest periods is willful and intentional.

20. Defendant does not to provide Aggrieved Employees accurate itemized wage statements in accordance with Labor Code §226. Defendant knowingly and intentionally fails to provide a wage statement that omits and/or inaccurate states the 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.” For example, in Plaintiff’s wage statement, the total gross and net wages earned are inaccurate because 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.”

21. Defendant fails to timely pay Plaintiff and other Aggrieved Employees business reimbursements for cellphone and internet expenses for necessary job tasks, including but not limited to, communicating with clients, coworkers and supervisors via email, phone calls and text messages.

22. 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)

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

24. 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,

1 agencies, or employees, for a violation of this code, may, as an alternative, be recovered
2 through a civil action brought by an aggrieved employee on behalf of the employee and
to other current or former employees against whom a violation of the same provision
was committed pursuant to the procedures specified in Section 2699.3.

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

6 26. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
7 Defendant, as alleged above, to pay all wages to Plaintiff and the Aggrieved Employees: (i) in
8 compliance with Cal. Lab. Code § 204, in the amounts established by Cal. Lab. Code § 210; (ii) in
9 compliance with Cal. Lab. Code §§ 1182.12 and 1197, in the amounts established by Cal. Lab. Code
10 § 1197.1; and (iii) in compliance with Cal. Lab. Code § 510, in the amounts established by Cal. Lab.
11 Code § 558.

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

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

21 29. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on September 4, 2024, Plaintiff
22 provided the Labor and Workforce Development Agency (“LWDA”) with notice of her intention to
23 file this claim. On September 4, 2024, Plaintiff mailed Defendant a copy of such notice via certified
24 mail. At least sixty-five calendar days have passed without a response from the LWDA. Plaintiff
25 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.
26 Code § 2699.3(a).

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

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

4 32. Wherefore, Plaintiff requests relief as hereinafter provided.

5 **SECOND CAUSE OF ACTION**
6 **Penalties Pursuant to Cal. Lab. Code § 2699(f)**
7 **(On Behalf of the State of California and Aggrieved Employees)**

8 33. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
9 herein.

10 34. Cal. Lab. Code § 2699(f) provides:

11 For all provisions of this code except those for which a civil penalty is specifically provided,
12 there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at
13 the time of the alleged violation, the person employs one or more employees, the civil penalty
14 is one hundred dollars (\$100) for each aggrieved employee per pay period. . . (B) The civil
15 penalty is two hundred dollars (\$200) for each aggrieved employee per pay period if either of
16 the following are met:(i) Within the five years preceding the alleged violation, the agency or
17 any court issued a finding or determination to the employer that its policy or practice giving
18 rise to the violation was unlawful. (ii) The court determines that the employer's conduct
19 giving rise to the violation was malicious, fraudulent, or oppressive.

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

24 36. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and
25 Aggrieved Employees for violations of Cal. Lab. Code provisions including, but not limited to, Cal.
26 Lab. Code §§ 201, 202, 203, 226.7, 1174(d), 1198, and 2802.

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

38. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on September 4, 2024, Plaintiff
provided the Labor and Workforce Development Agency ("LWDA") with notice of her intention to

1 file this claim. On September 4, 2024, Plaintiff mailed Defendant a copy of such notice via certified
2 mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff
3 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.
4 Code § 2699.3(a).

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

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

10 41. Wherefore, Plaintiff requests relief as hereinafter provided.

11 **PRAYER FOR RELIEF**

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

- 13 1. For the Court to declare, adjudge, and decree that Defendant has violated the Cal. Lab.
14 Code as alleged herein;
- 15 2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil
16 penalties provided under the PAGA;
- 17 3. For an order requiring Defendant to display a notice in accordance with Cal. Lab. Code
18 § 226.8;
- 19 4. For injunctive relief, prohibiting Defendant from continuing its policies and practices
20 determined to be violations of the Cal. Lab. Code;
- 21 5. For an award of reasonable attorneys' fees as provided by the Cal. Lab. Code §
22 2699(g)(1); Cal. Code Civ. Proc. § 1021.5; and/or any other applicable law;
- 23 6. For all costs of suit; and
- 24 7. For such other and further relief as this Court deems just and proper.

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Respectfully Submitted,

Date: January 7, 2025



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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: January 7, 2025



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