

November 25, 2024

Original filed online via the LWDA's PAGA Claim Notice Portal

Labor & Workforce Development Agency

1515 Clay Street, Ste. 801
Oakland, CA 94612

Copy Sent via certified mail to:

Human Resources Administrator

RANDSTAD REDLANDS

26597 San Bernardino Avenue
Redlands, California 92374

Human Resources Administrator

**BURLINGTON COAT FACTORY
WAREHOUSE**

27582 E Pioneer Ave
Redlands, California 92374

CSC Lawyers Incorporating Services – ASOP

RANDSTAD INHOUSE SERVICES, LLC

2710 Gateway Oaks Drive Suite 150N
Sacramento, California 95833

CT Corporation System – ASOP

**BURLINGTON DISTRIBUTION CORP.
BURLINGTON STORES, INC.**

330 North Brand Boulevard Suite 700
Glendale, California 91203

***Re: Richard Shackelford v. Randstad Inhouse Services,
LLC; Burlington Coat Factory Warehouse et al.;
California Labor Code § 2699.3 Notice of Intent to
File Suit***

To Whom it May Concern:

We represent **Richard Shackelford** (“Plaintiff”) a former employee of **Randstad Inhouse Services, LLC and Burlington Coat Factory Warehouse** (“Defendants”) in a lawsuit (the “Action”) to be filed against Defendants in San Bernardino County

Superior Court. A copy of the draft Complaint is enclosed as **Exhibit A**.

This letter serves as notice pursuant to California Labor Code § 2699.3 that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf of those of Defendant's employees employed from one year prior to filing of this Notice through trial on the Complaint (the "Aggrieved Employees").

As set forth in the Complaint, Defendant violated their obligations under the California Labor Code by failing to pay minimum wages for all hours worked pursuant to Lab. Code sections 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198; failing to pay overtime wages pursuant to Lab. Code sections 510, 1194, and 1198; failing to authorize rest and meal periods pursuant to Lab. Code sections 226.7, 512(a), and 1198; failing to pay all wages due under Labor Code sections 201-204, 210; and failing to provide and maintain accurate payroll records pursuant to Lab. Code sections 226(a)/(f)/(h), 226.3, and 1174(d).

Together with this correspondence, the enclosed complaint serves as notice pursuant to Labor Code § 2699.3, *et seq.* that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf the Aggrieved Employees. *See* Cal. Lab. Code §§ 2699, *et seq.*

Please feel free to contact us with any questions.

Sincerely,

Elliot J. Siegel
KING & SIEGEL LLP
Bardia A. Akhavan
AKHAVAN & ASSOCIATES

Exhibit A

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10 tel: (855) 463-4733

11 Attorneys for Plaintiff and Aggrieved Employees

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN BERNARDINO**

14 **RICHARD SHACKELFORD**, on behalf
of all similarly situated individuals,

15 Plaintiff,

16 v.

17 **RANDSTAD INHOUSE SERVICES,**
18 **LLC**, a Delaware limited liability
19 company; **BURLINGTON**
20 **DISTRIBUTION CORP.**, a Delaware
21 limited liability company;
22 **BURLINGTON COAT FACTORY**
WAREHOUSE CORPORATION, a
Florida Corporation; and **Does 1-10**,
inclusive;

23 Defendants.
24

CASE NO.

**REPRESENTATIVE COMPLAINT
FOR:**

1) **PAGA Penalties (Labor Code
§§ 2698, *et seq.*)**

1 Plaintiff Richard Shackelford, on behalf of the State of California, solely in his
2 representative capacity as a private attorney general under the Private Attorney General Act of
3 2004, Labor Code § 2699, *et seq.* (“PAGA”), hereby brings this action on behalf of all “aggrieved
4 employees” and alleges as follows, by and through his counsel of record:

5 **PAGA ONLY ACTION**

6 1. PAGA authorizes “an aggrieved employee, acting as a proxy or agent of the state
7 Labor and Workforce Development Agency, to bring a civil action against an employer on behalf
8 of himself or himself and other current or former employees to recover civil penalties for Labor
9 Code violations they have sustained.” *Adolph v. Uber Techs.*, 14 Cal.5th 1104, 1113 (Cal. 2023).

10 2. “PAGA is designed primarily to benefit the general public, not the party bringing
11 the action.” *Id.*, at 1117. “A PAGA claim for civil penalties is fundamentally a law enforcement
12 action. The government entity on whose behalf the plaintiff files suit is the real party in interest.”
13 *Id.* PAGA’s default civil penalties are thus calculated to punish the employer’ for wrongdoing and
14 to deter violations rather than “compensate employees for actual losses incurred.” *Id.*

15 3. Under the authority expressed in *Adolph* and *Balderas v. Fresh Start Harvesting,*
16 *Inc.*, No. B326759, at *1 (Cal. Ct. App. Mar. 20, 2024), Mr. Shackelford does not bring suit in his
17 individual capacity and does not seek to recover anything through this suit other than civil
18 penalties as permitted under PAGA—she brings this action solely in his representative capacity
19 under the PAGA, on behalf of the State of California, the public, and all aggrieved employees of
20 Defendants.

21 4. To the extent that statutory violations are mentioned for wage violations, Mr.
22 Shackelford does not seek underlying general and/or special damages for those violations, but
23 only references those predicate violations as part of the State’s claim for civil penalties under
24 PAGA.

25 5. Nothing in this complaint is—or should be construed—as an attempt to seek any
26 relief that would not be available in a PAGA-only proceeding.

THE PARTIES

6. Plaintiff **RICHARD SHACKELFORD** (“Plaintiff” or “Mr. Shackelford”) is a resident of the County of San Bernardino in the State of California. Mr. Shackelford was employed by Defendants as a server, a part-time nonexempt position, from approximately August 2021 to February 22, 2024.

7. Defendant **RANDSTAD INHOUSE SERVICES, LLC** (“Randstad”) is a Delaware limited liability company with a principal place of business of 26597 San Bernardino Avenue, Redlands, California 92374. Upon information and belief, Randstad employs at least 100 employees.

8. Defendant **BURLINGTON DISTRIBUTION CORP** (“Burlington Distribution”) is a Delaware limited liability company with a principal place of business of 1830 Route 130, North Burlington, New Jersey 08016. Upon information and belief, Burlington Distribution employs at least 50 employees.

9. Defendant **BURLINGTON COAT FACTORY WAREHOUSE CORPORATION** (“Burlington Coat Factory”) is a Florida corporation with a principal place of business of 27582 East Pioneer Avenue, Redlands, California 92374. Upon information and belief, Burlington Coat Factory employs at least 50 employees.

10. The true names and capacities of the defendants named herein as Does 1 through 10, inclusive (together with Randstad, Burlington Distribution, and Burlington Coat Factory, “Defendants”), are unknown to Plaintiff at this time. Accordingly, Plaintiff brings this suit against them by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe Defendants is a California resident and/or does substantial business in the State of California. At all relevant times, Does 1 through 10 were acting within the course and scope of their employment and agency with Defendants. Plaintiff is informed and believes that each Doe Defendant is responsible for the injuries and damages alleged herein. Plaintiff will amend this complaint to reflect Does 1 through 10’s true names and capacities when they have been determined.

11. Except as otherwise noted herein, Defendants participated in the acts alleged

herein and/or were the agents, servants, employees, or representatives of the other Defendants. At all times relevant to this complaint, Defendants were acting within the course, scope, and authority of their agency and employment such that the acts of one defendant are legally attributable to the other Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and Aggrieved Employees in that each of them exercised control over the wages, hours, and/or working conditions of Defendants' hourly non-exempt employees.

JURISDICTION AND VENUE

12. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI, section 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure, and the Business & Professions Code.

13. Venue as to Defendants is proper in this Superior Court pursuant to California Code of Civil Procedure section 395. The unlawful acts alleged have directly affected Plaintiff and similarly situated employees within and throughout Los Angeles County.

FIRST CAUSE OF ACTION

California Labor Code §2699, et seq.

Private Attorneys General Act ("PAGA") Penalties (Plaintiff and Aggrieved Employees Against Defendants)

14. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders.

15. Mr. Shackelford, by nature of his employment with Defendants, is an aggrieved employee for purposes of this Complaint with standing to bring an action under PAGA.

16. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, *et seq.*, seeking civil penalties for Defendants' violation of Labor Code §§ 201-204, 210, 226, 226.7, and 510, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198 as described herein, plus attorneys' fees and costs.

1 17. Mr. Shackelford does not bring suit in his individual capacity and does not seek to
2 recover anything through this suit other than representative civil penalties as permitted under
3 PAGA—she brings this action solely in his representative capacity under the PAGA, on behalf of
4 the State of California and all aggrieved employees of Defendants.

5 18. Entitlement to Penalties. Per Labor Code § 2699(f), and based on the foregoing,
6 Plaintiff and Aggrieved Employees are entitled to civil penalties in an amount to be shown at
7 trial subject to the following formula: (a) In an amount set forth as a civil penalty in the
8 underlying statute; or (b) \$100 per initial violation per employee per pay period, and \$200 for
9 each subsequent violation per employee per pay period.

10 19. These penalties shall be allocated sixty-five percent to the Labor and Workforce
11 Development Agency and thirty-five percent to the aggrieved employees.

12 20. These penalties may be “stacked” separately for each of Defendants’ violations of
13 the Labor Code, subject to the exception enumerated in Labor Code section 2698(i). *See, e.g.,*
14 *Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June
15 22, 2012); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at
16 *7 (N.D. Cal. June 30, 2016); Labor Code § 2698(i).

17 21. Predicate Violations. The Aggrieved Employees are entitled to civil penalties under
18 PAGA arising from the following predicate violations of the Labor Code.¹

19 22. *Failure to Pay Minimum Wage for All Hours Worked.* California law requires
20 employers to compensate employees for all time that an employee is “suffered or permitted to
21 work,” which includes all time “when any employer ‘directs, commands or restrains’ an
22 employee.” *See, e.g., Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000).

23 23. The Wage Orders also require that each workday an employee is required to report
24 for work and does report, but is not put to work or is furnished less than half said employee’s
25 usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s
26

27 ¹ To the extent that statutory violations are mentioned for wage violations, Plaintiff does
28 not seek underlying general and/or special damages for those violations, but only references
them as part of the State’s claim for civil penalties under PAGA for those predicate violations.

1 work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's
2 regular rate of pay, which shall not be less than the minimum wage.

3 24. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all
4 hours worked because Defendants had a policy and/or practice whereby they required and/or
5 pressured Plaintiff and Aggrieved Employees to work under Defendants' control while off-the-
6 clock, including but not limited to forcing or requiring Plaintiff and Aggrieved Employees to
7 work while they were clocked out for their meal periods. Defendants further failed to pay Plaintiff
8 and Aggrieved Employees any wages for time engaged in this off-the-clock work.

9 25. Defendants failed to compensate Plaintiff and Aggrieved Employees for all hours
10 worked because Defendants' common policy and practice failed to pay Aggrieved Employees at
11 least minimum wages for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1197,
12 1197.1, and 1198. Defendants also failed to pay reporting time pay where applicable in violation
13 of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198.

14 26. *Failure to Pay Required Overtime.* California Labor Code §§ 510 and 1198 provide
15 that it is unlawful to employ persons without compensating them at a rate of pay either time-
16 and-one-half or two-times that person's regular rate of pay, depending on the number of hours
17 worked by the person on a daily or weekly basis.

18 27. Plaintiff and Aggrieved Employees who work more than eight hours in a day or
19 more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all
20 hours worked in excess of eight hours in a day or more than forty hours in a workweek. An
21 employee's regular rate of pay includes all remuneration for employment paid to, or on behalf
22 of, the employee, including commissions, non-discretionary bonuses and incentive pay.
23 *Alvarado v. Dart Container Corp.*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

24 28. Defendants failed to record and/or compensate Aggrieved Employees for all time
25 worked due to practices requiring Aggrieved Employees to perform work off-the-clock, and to
26 work through meal breaks. Since some Aggrieved Employees worked shifts equal to or in excess
27 of 8 hour a day or 40 hours a week, some of this time should have been paid at overtime rates
28 but was not.

29. *Failure to Provide Compliant Meal Periods.* Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC. “An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . . an employer’s obligation is to provide an off-duty meal period: an uninterrupted 30–minute period during which the employee is relieved of all duty.” *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

30. Defendants’ policies and practices served to deprive the Aggrieved Employees of legally compliant 30-minute breaks free of employer control and/or relieved of all duties. Upon information and belief, Aggrieved Employees were required to interrupt breaks, work through, or remain under Defendants’ control due to Defendants’ policies and practices, and were denied 30-minute net meal periods.

31. *Failure to Provide Compliant Rest Periods.* Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC.

32. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: “A rest period, in short, must be a period of rest.”² *Augustus v. ABM Sec. Servs., Inc.*, 2 Cal.5th 257, 273 (2016).

33. On information and belief, Defendants failed to authorize or permit all required compliant paid rest periods for shifts worked by Aggrieved Employees by requiring them to skip rest periods, interrupt rest periods, or work through rest periods.

34. *Failure to Provide and Maintain Compliant Wage Statements.* Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee

² Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; see also Department of Industrial Relations, “Rest Periods/Lactation Accommodations,” available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”)

(for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of his or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

35. Because Defendant did not record all time Plaintiff and Aggrieved Employees spent working as a result of their practices requiring employees to perform work off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Aggrieved Employees in compliance with section 226(a)(1) and 226(a)(5). For the same reason, Defendant failed to accurately list the total number of hours worked by Plaintiff and Aggrieved Employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding accurate number of work hours worked at each hourly rate in violation of section 226(a)(9). Defendants also failed to list all earned premium wages for missed meal and rest periods on Aggrieved Employees' wage stubs in violation of section 226(a)(1) and (a)(5). *Naranjo v. Spectrum Sec. Servs.*, 13 Cal.5th 93, 121 (2022).

36. Defendants knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiffs and Aggrieved Employees.

37. *Failure to Pay All Wages Due On Regular Pay Days And At Separation.* At all times relevant herein set forth, Labor Code § 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

38. At all times relevant herein, Labor Code § 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

39. During the relevant time period, Defendant willfully failed to pay Plaintiff and

Aggrieved Employees all earned minimum, overtime, and premium wages at the applicable regular rate of pay within the time periods specified by California Labor Code § 204.

40. Defendants' failure to pay Plaintiff and Aggrieved Employees all wages due violates Labor Code § 204.

41. Labor Code § 203 provides that "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

42. Aggrieved Employees have left Defendants' employ during the Period. Defendants knowingly failed to pay Aggrieved Employees all earned wages upon termination by failing to pay all earned minimum, overtime, and premium wages at the applicable regular rate of pay in violation of Labor Code §§ 201 and 202. *Naranjo v. Spectrum Sec. Servs.*, 13 Cal.5th 93, 117 (2022).

43. Defendants' failure to pay Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plaintiff and formerly employed Aggrieved Employees are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

44. Procedural Requirements Met. On November 25, 2024, Plaintiff electronically filed a notice of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff did not receive notice from the LWDA that it would be investing the complaint nor did Plaintiff receive notice from the LWDA that it was declining to investigate with the 65-day period under Labor Code § 2699.3. On December 2, 2024, the sixty-five-day notice period expired as to all defendants. Since the LWDA took no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative remedies required to seek penalties under PAGA. *See* Lab. Code § 2699.3(a)(2). A true and correct copy of Plaintiff's PAGA Notice is attached herein as

Exhibit A.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

- A. For civil penalties under PAGA to be determined by trial;
- B. For pre- and post-judgment interest as allowed;
- C. For preliminary and permanent injunctive relief;
- D. For reasonable attorney's fees and costs and expert fees and costs; and
- E. For such other relief as this Court deems just and proper.

Dated:

Respectfully submitted,

KING & SIEGEL LLP

By: _____

Elliot J. Siegel, Esq.

Attorneys for Plaintiff and Aggrieved Employees

AKHAVAN & ASSOCIATES

By: _____

Bardia A. Akhavan, Esq.

Attorneys for Plaintiff and Aggrieved Employees