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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**
11

12 JUSTIN GARDINO, on behalf of all aggrieved
13 employees pursuant to the Private Attorneys
General Act ("PAGA"),

14 Plaintiff,

15 vs.
16

17 POWAY WEAPONS & GEAR, INC., and DOES
1 through 100, inclusive,

18 Defendants.
19

Case No. 25CU008728C

**COMPLAINT FOR CIVIL PENALTIES
(PRIVATE ATTORNEYS GENERAL ACT
OF 2004; LABOR CODE §§ 2698 ET SEQ.)**

Assigned for all purposes to:

20 Complaint Filed: February 18, 2025
21 Trial Date: None Set
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1 Plaintiff Justin Gardino (“Plaintiff”) hereby submits his Complaint for civil penalties against
2 Defendant Poway Weapons & Gear, Inc. (“Defendant” or “POWAY”), and DOES 1 through 100,
3 inclusive (collectively, “Defendants”) as follows:

4 **I. INTRODUCTION**

5 1. This is a Private Attorneys General Act of 2024, Labor Code §§ 2698, et seq.
6 (“PAGA”) representative action brought by Plaintiff on behalf of the State of California and the Labor
7 and Workforce Development Agency, and all current and former Aggrieved Employees of Defendants
8 who performed work in California during the relevant time period seeking civil penalties associated
9 with Defendants’ violation of the Labor Code as set forth below. Plaintiff seeks on a representative
10 basis, following notice to the Labor and Workforce Development Agency (“LWDA”), civil penalties,
11 reasonable attorneys’ fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of
12 all Aggrieved Employees who performed work for Defendants in California during the relevant period.

13 2. Plaintiff alleges that Defendants hired Plaintiff and Aggrieved Employees but failed to
14 properly pay them all wages owed for all time worked (including minimum wages, straight time
15 wages, and overtime wages), failed to provide them all with all meal periods and rest periods and
16 associated premium wages to which they were entitled, failed to timely pay them all wages due during
17 their employment, failed to timely pay them all wages due upon termination of their employment,
18 failed to provide them with accurate itemized wage statements, and failed to maintain accurate payroll
19 records.

20 3. As a result, Defendant violates, *inter alia*, California Labor Code Sections 201, 202,
21 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the
22 applicable Industrial Welfare Commission (“IWC”) Wage Order. Through this action, Plaintiff seeks
23 to recover all available remedies under PAGA including but not limited to civil penalties and
24 attorneys’ fees and costs.

25 **II. ALLEGATIONS REGARDING JURISDICTION AND VENUE**

26 4. This Court has jurisdiction over this action pursuant to the California Constitution
27 Article VI, section 10. The statutes under which this action brought does not specify any other basis
28 for jurisdiction.

1 5. This Court has jurisdiction over the claims brought herein by Plaintiff on behalf of all
2 Aggrieved Employees who performed work in California during the relevant time period because
3 Plaintiff's lawsuit seeks civil penalties on behalf all such Aggrieved Employees and the State of
4 California the Labor and Workforce Development Agency in excess of the \$25,000 minimum
5 jurisdiction of this Court, and will be established according to proof at trial.

6 6. This Court has jurisdiction over all Defendants, because upon information and belief,
7 Defendants are either citizens of California, have sufficient minimum contacts in California, or
8 otherwise intentionally availed themselves of the California market to render the exercise of
9 jurisdiction over them by California courts consistent with traditional notions of fair play and
10 substantial justice. Further, no federal question is at issue because the claims asserted herein are based
11 solely on California law.

12 7. Venue is proper in this court because, upon information and belief, Defendants
13 maintain offices, have agents, employ individuals, and/or transact business in the State of California,
14 County of San Diego. Moreover, many of the acts, events, and violations alleged herein related to
15 Plaintiff and Aggrieved Employees occurred in the State of California, County of San Diego. This
16 action is brought on behalf of the State of California as a private attorney general, and jurisdiction is
17 therefore proper in this venue.

18 **III. ALLEGATIONS REGARDING PARTIES**

19 8. Plaintiff Justin Gardino is an individual residing in the State of California. He is
20 employed by Defendants and performs work in California within the statutory time period and suffered
21 at least one or more Labor Code violations in connection with performing work for Defendants in
22 California.

23 9. In addition to Plaintiff, aggrieved former and/or current employees of Defendants that
24 performed work for Defendants in California during the relevant period suffered the same or other
25 Labor Code violations as Plaintiff while working for Defendants in California and are referred to
26 herein as "Aggrieved Employees."

1 10. Plaintiff is informed and believes, and thereon alleges, that Defendant POWAY was
2 and is, an employer who does business in California, within the County of San Diego, including at
3 13550 Danielson St., Poway, CA 92064.

4 11. Plaintiff does not know the true names or capacities, whether individual, partner or
5 corporate, of Defendants sued herein as DOES 1 through 100, inclusive, and for that reason said
6 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend the complaint
7 when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges
8 that each of the Defendants designated as a DOE was responsible in some way for the matters alleged
9 herein and proximately caused current and former aggrieved employees to be subject to the illegal
10 employment practices, wrongs, and injuries complained of herein, and as to be discovered through
11 discovery.

12 12. At all times herein mentioned, Defendants, and each of them, were agents, partners,
13 joint venturers, representatives, officers, servants, employees, successors-in-interest, co-conspirators,
14 and assigns, and all acts or omissions alleged herein were duly committed with ratification,
15 knowledge, permission, encouragement, authorization, and consent of each Defendant designated
16 herein.

17 13. Plaintiff is informed and believes, and thereon alleges, that at all times relevant to this
18 matter Defendants, and each of them, exercised control over Plaintiff's and the Aggrieved Employees'
19 wages, hours, or working conditions.

20 14. Each of the Defendants is sued individually and in its, his or her capacity as an
21 employer, agent, shareholder, owner, representative, manager, supervisor, and/or employee of each
22 defendant that violated or caused to be violated the Labor Code violations alleged herein.

23 15. As such, and based upon all of the facts and circumstances incident to Defendants'
24 business in California, Defendants are subject to PAGA and liable for the violations of the California
25 Labor Code alleged herein.

26 **IV. ALLEGATIONS REGARDING NOTICE TO LWDA**

27 16. Plaintiff filed a PAGA Notice with the California Labor & Workforce Development
28 Agency ("LWDA") on November 20, 2024, setting forth Labor Code provisions alleged to have been

1 violated and supporting facts and theories and served a copy of the PAGA Notice by certified mail on
2 Defendant POWAY. A copy of the first PAGA Notice with return receipt is attached hereto as **Exhibit**
3 **1**.

4 17. More than 65 days have passed since the postmark date of Plaintiff's notices to the
5 LWDA, and the LWDA did not notify Plaintiff that it intends to investigate the matter. Plaintiff is
6 entitled to maintain claims against Defendants. Plaintiff brings this PAGA case to end Defendants'
7 violations of California law, and to recover civil penalties arising from Defendants' unlawful conduct.

8 18. Defendants hired Plaintiff and Aggrieved Employees but fail to accurately record all
9 time worked and therefore failed to properly pay wages at the correct rates of pay, failed to provide all
10 meal and rest breaks to which they were entitled, failed to timely pay all wages, failed to provide
11 accurate wage statements, and failed to adhere to other related protections afforded by the California
12 Labor Code and applicable IWC Wage Order.

13 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
14 should have known that Plaintiff and the Aggrieved Employees were entitled to the protections
15 afforded by the California Labor Code and the applicable IWC Wage Order, yet as set forth in detail
16 below, engaged in a systematic pattern and practice of violating the California Labor Code and the
17 applicable IWC Wage Order.

18 **V. ALLEGATIONS REGARDING PAGA**

19 20. PAGA is and was applicable to Defendants' employment of Plaintiff and Aggrieved
20 Employees.

21 21. PAGA provides that any provision of law under the California Labor Code that
22 provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected
23 by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through
24 a civil action brought by an aggrieved employee on behalf of himself or herself and other current or
25 former employees pursuant to procedures outlined in California Labor Code section 2699.3.

26 22. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is
27 any person employed by the alleged violator and against whom one or more of the alleged violations
28 was committed.

1 23. Plaintiff and the other hourly-paid, non-exempt employees are “Aggrieved Employees”
2 as defined by California Labor Code section 2699(c) because they are current or former employees of
3 Defendants against whom one or more of the alleged violations were committed.

4 24. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
5 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements
6 have been met:

7 a. The aggrieved employee shall give written notice by certified mail to the
8 LWDA and the employer of the specific provisions of the California Labor
9 Code alleged to have been violated, including facts and theories to support the
10 violations.

11 b. The LWDA shall provide notice to the employer and the aggrieved employee by
12 certified mail that it does not intend to investigate the alleged violation within
13 sixty (60) calendar days of the postmark date of the employee’s notice, the
14 aggrieved employee may commence a civil action pursuant to California Labor
15 Code section 2699 to recover civil penalties in addition to any other penalties to
16 which the employee may be entitled.

17 25. As noted above, on November 20, 2024, Plaintiff provided notice by electronic
18 submission to the LWDA and by certified mail to Defendants regarding the specific provisions of the
19 California Labor Code alleged to have been violated, including the facts and theories to support the
20 alleged violations, pursuant to California Labor Code section 2699.3. *See Exhibit 1.*

21 26. Plaintiff did not receive a LWDA Response within sixty-five (65) calendar days of
22 providing the Employee’s notice.

23 27. Therefore, the administrative prerequisites under California Labor Code section
24 2699.3(a) to recover penalties against Defendants, in addition to other remedies for violations of, *inter*
25 *alia*, California Labor Code Sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d),
26 1194, 1197, 1197.1, 1198, 2800, and 2802, have been satisfied.

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VI. ALLEGATIONS REGARDING LABOR CODE VIOLATIONS

FIRST CAUSE OF ACTION

(Failure to Pay all Wages)

28. Plaintiff hereby realleges and incorporates by reference each and every one of the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

29. California Labor Code Sections 200 et seq., including Section 204 establishes the fundamental right of all employees in the State of California to be paid wages in a timely fashion.

30. Pursuant to Labor Code Sections 218 and 1194, Plaintiff may bring a civil action for unpaid wages directly against Defendants without first filing a claim with the Division of Labor Standards Enforcement and may recover such wages, together with interest thereon, penalties, attorneys' fees and costs.

31. At all relevant times, Plaintiff performed work for Defendants the State of California. Defendants suffered and permitted Plaintiff perform work without compensation in violation of the IWC Wage Order(s) and the California Labor Code provisions. Defendants have adopted and implemented unlawful compensation policies, practices and procedures that, among other things, did not pay Plaintiff for all of Plaintiff's time worked. Moreover, Defendants required, suffered and/or permitted Plaintiff to perform work during their scheduled meal periods, so that the work was not accounted for accurately or completely.

32. During the liability period, California Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

33. Defendants knowingly and intentionally failed to pay Plaintiff for these wages due. As a result, Plaintiff suffered compensatory damages and is owed wages for the work Plaintiff performed without compensation.

34. Pursuant to Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff further requests that the Court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

35. Pursuant to Labor Code Section 218.6, Labor Code Section 1194(a), and Civil Code

1 Section 3287, Plaintiff seeks recovery of pre-judgment interest on all amounts recovered herein.

2 36. At all times pertinent hereto, California Labor Code § 1194 provided:
3 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal
4 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in
5 a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation,
6 including interest thereon, reasonable attorney’s fees, and costs of suit.” In addition to the above,
7 Plaintiff seeks all amounts authorized by California Labor Code § 1194.

8 37. At all times pertinent hereto, California Labor Code § 1194.2 provides for the recovery
9 of prejudgment interest in any action brought to recover the nonpayment of wages, at the rate
10 specified in Civil Code § 3289. In addition to the above, Plaintiff seeks all amounts authorized by
11 California Labor Code §§ 1194.2 and 218.6.

12 38. Pursuant to, California Labor Code § 558, “Any employer or other person acting on
13 behalf of an employer who violates or causes to be violated” the relevant Labor Code sections cited
14 above, is subject to penalties, damages and other restitution to Plaintiff. In addition to the above,
15 Plaintiff seeks all amounts authorized by California Labor Code § 558.

16 39. Pursuant to, California Labor Code § 558.1, “Any employer or other person acting on
17 behalf of an employer who violates or causes to be violated” the relevant Labor Code sections cited
18 above, “may be held liable as the employer for such violation.” In addition to the above, Plaintiff
19 seeks all amounts authorized by California Labor Code § 558.1 against each of the Defendants.

20 40. Plaintiff alleges that Defendants ordered, authorized, approved and/or ratified the
21 conduct herein alleged with the intent to deprive the Plaintiff of monies to which they were and are
22 entitled under California law, so as to increase Defendants’ profits, notwithstanding clear statutory
23 obligations, including those which carry criminal penalties for noncompliance.

24 **SECOND CAUSE OF ACTION**

25 **(Meal Break Violations)**

26 41. On information and belief, Aggrieved Employees working in California worked shifts
27 of more than five (5) hours in length and shifts of more than ten (10) hours in length.
28

1 42. California law requires an employer to authorize or permit an employee an
2 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all
3 duties and the employer relinquishes control over the employee's activities prior to the
4 employee's sixth hour of work. Labor Code sections 226.7, 512; *Brinker Rest. Corp. v. Super Ct.*
5 (*Hohnbaum*) (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period
6 of more than ten (10) hours per day without providing the employee with a second such meal period
7 of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employee
8 is not relieved of all duty during a meal period, the meal period shall be considered an "on duty"
9 meal period and counted as time worked. A paid "on duty" meal period is only permitted when: (1)
10 the nature of the work prevents an employee from being relieved of all duty; and (2) the parties
11 have a written agreement agreeing to on-duty meal periods.

12 43. If an employer fails to provide an employee a meal period in accordance with the law,
13 the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each
14 workday that a legally required and compliant meal period was not provided. Labor Code section
15 226.7(b).

16 44. On information and belief, Aggrieved Employees working in California worked shifts
17 during which they were entitled to one or more uninterrupted thirty minute meal periods as required by
18 Labor Code Sections 226.7, 512 and applicable IWC Wage Orders, which Defendants failed to
19 provide.

20 45. On information and belief, Defendants regularly required Claimant and other
21 Aggrieved Employees to work through their first meal periods, to take their first meal period after their
22 fifth (5th) hour of work. Meal breaks, when provided, were oftentimes interrupted and/or cut short..

23 46. On information and belief, employees who were not provided legally required meal
24 periods did not sign valid meal period waivers.

25 47. On information and belief, Defendants regularly failed to pay wage premiums for
26 missed (or interrupted) meal periods, in violation of Section 226.7(b). Reasons for such meal period
27 violations include, but are not limited to, Defendants' requiring non-exempt employees to remain on
28 call during meal periods, Defendants' failure to ensure adequate staffing, and Defendants' requiring

1 employees to complete too many work duties and time-sensitive job tasks, thereby denying employees
2 the opportunity to take timely, complete, and uninterrupted meal periods.

3 48. Pursuant to Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff further requests
4 that the Court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

5 49. Pursuant to Labor Code Section 218.6, Labor Code Section 1194(a), and Civil Code
6 Section 3287, Plaintiff seeks recovery of pre-judgment interest on all amounts recovered herein.

7 50. At all times pertinent hereto, California Labor Code § 1194 provided:
8 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal
9 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in
10 a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation,
11 including interest thereon, reasonable attorney's fees, and costs of suit." In addition to the above,
12 Plaintiff seeks all amounts authorized by California Labor Code § 1194.

13 51. At all times pertinent hereto, California Labor Code § 1194.2 provides for the recovery
14 of prejudgment interest in any action brought to recover the nonpayment of wages, at the rate
15 specified in Civil Code § 3289. In addition to the above, Plaintiff seeks all amounts authorized by
16 California Labor Code §§ 1194.2 and 218.6.

17 52. Pursuant to, California Labor Code § 558, "Any employer or other person acting on
18 behalf of an employer who violates or causes to be violated" the relevant Labor Code sections cited
19 above, is subject to penalties, damages and other restitution to Plaintiff. In addition to the above,
20 Plaintiff seeks all amounts authorized by California Labor Code § 558.

21 53. Pursuant to, California Labor Code § 558.1, "Any employer or other person acting on
22 behalf of an employer who violates or causes to be violated" the relevant Labor Code sections cited
23 above, "may be held liable as the employer for such violation." In addition to the above, Plaintiff
24 seeks all amounts authorized by California Labor Code § 558.1 against each of the Defendants.

25 54. Plaintiff alleges that Defendants ordered, authorized, approved and/or ratified the
26 conduct herein alleged with the intent to deprive the Plaintiff of monies to which they were and are
27 entitled under California law, so as to increase Defendants' profits, notwithstanding clear statutory
28 obligations, including those which carry criminal penalties for noncompliance.

THIRD CAUSE OF ACTION

(Rest Break Violations)

55. On information and belief, non-exempt Aggrieved Employees working in California worked shifts of more than three-and-a-half (3.5) hours in length.

56. California law requires every employer to authorize and permit an employee a rest period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code section 226.7; IWC Wage Orders. Under California law, “[e]mployees are entitled to 10 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; IWC Wage Orders. Rest periods, insofar as practicable, shall be in the middle of each work period. *See* IWC Wage Orders. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

57. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code section 226.7; IWC Wage Orders.

58. In this case, on information and belief, Defendants failed to authorize or permit all legally required and compliant rest periods to non-exempt Aggrieved Employees due to Defendants’ policies, practices, and/or procedures.

59. On information and belief, Defendants’ non-exempt employees frequently worked shifts during which they were entitled to one or more paid, duty-free ten minute rest periods as required by the Labor Code and IWC Wage Orders.

60. On information and belief, The Company failed to authorize and permit Claimant and other Aggrieved Employees to take compliant 10-minute rest periods. The Company required Claimant and other Aggrieved Employees to work through rest periods. Claimant and Aggrieved

1 Employees were not provided with uninterrupted, duty-free rest periods when they worked more than
2 four (4) hours or a major fraction thereof. In the rare event that a rest period was taken, it was
3 frequently interrupted or cut short.

4 61. On information and belief, Defendants maintained a policy, practice, and/or procedure
5 that effectively failed to compensate the relevant Aggrieved Employees with one (1) hour of pay at
6 their regular rate of pay for each workday they did not receive legally required and compliant rest
7 periods, in violation of Labor Code section 226.7 and IWC Wage Orders.

8 62. Accordingly, on information and belief, Defendants regularly failed to provide required
9 rest breaks, and did not pay wage premiums for missed (or interrupted) rest breaks, in violation of
10 Section 226.7 and IWC Wage Orders.

11 63. Defendants' policies, practices, and/or procedures resulted in Aggrieved Employees not
12 receiving wages to compensate them for workdays in which Defendants did not provide them with
13 proper meal and rest periods in compliance with California law.

14 64. Pursuant to Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff further requests
15 that the Court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

16 65. Pursuant to Labor Code Section 218.6, Labor Code Section 1194(a), and Civil Code
17 Section 3287, Plaintiff seeks recovery of pre-judgment interest on all amounts recovered herein.

18 66. At all times pertinent hereto, California Labor Code § 1194 provided:
19 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal
20 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in
21 a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation,
22 including interest thereon, reasonable attorney's fees, and costs of suit." In addition to the above,
23 Plaintiff seeks all amounts authorized by California Labor Code § 1194.

24 67. At all times pertinent hereto, California Labor Code § 1194.2 provides for the recovery
25 of prejudgment interest in any action brought to recover the nonpayment of wages, at the rate
26 specified in Civil Code § 3289. In addition to the above, Plaintiff seeks all amounts authorized by
27 California Labor Code §§ 1194.2 and 218.6.

28 68. Pursuant to, California Labor Code § 558, "Any employer or other person acting on

1 behalf of an employer who violates or causes to be violated” the relevant Labor Code sections cited
2 above, is subject to penalties, damages and other restitution to Plaintiff. In addition to the above,
3 Plaintiff seeks all amounts authorized by California Labor Code § 558.

4 69. Pursuant to, California Labor Code § 558.1, “Any employer or other person acting on
5 behalf of an employer who violates or causes to be violated” the relevant Labor Code sections cited
6 above, “may be held liable as the employer for such violation.” In addition to the above, Plaintiff
7 seeks all amounts authorized by California Labor Code § 558.1 against each of the Defendants.

8 70. Plaintiff alleges that Defendants ordered, authorized, approved and/or ratified the
9 conduct herein alleged with the intent to deprive the Plaintiff of monies to which they were and are
10 entitled under California law, so as to increase Defendants’ profits, notwithstanding clear statutory
11 obligations, including those which carry criminal penalties for noncompliance.

12 **FOURTH CAUSE OF ACTION**

13 **(Timely Pay Violations)**

14 71. In California, all earned wages must be paid at least twice during each calendar month
15 on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor
16 Code section 204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month
17 must be paid between the 16th and the 26th day of that month and wages earned between the 16th and
18 the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the
19 following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly,
20 must be paid within seven (7) calendar days following the close of the payroll period in which wages
21 were earned. Labor Code section 204(d).

22 72. Plaintiff alleges on information and belief that Defendants failed to timely pay the
23 Aggrieved Employees earned wages within the applicable time frames outlined in Labor Code section
24 204 thus constituting a violation of Labor Code section 204.

25 73. California Labor Code section 216 makes it a violation of that provision for any person
26 to willfully refuse to pay wages dues and payable after demand has been made or who falsely denies
27 the amount of validity of the wages owed with intent to secure any discount upon such indebtedness or
28 with intent to annoy, harass, oppress, hinder, delay or defraud the person to whom the wages are owed.

1 74. On information and belief, as alleged herein, Defendants willfully failed and refused to
2 pay all wages due and payable in violation of Labor Code §§ 204 and 216 after demand was made or
3 in connection with a scheme to falsely deny the amount of validity of wages owed with intent to secure
4 a discount on such indebtedness, or with intent to annoy, harass, oppress, hinder, delay or defraud the
5 person to whom the wages are owed.

6 75. Defendants' conduct also violates Labor Code section 223 in that it secretly paid wages
7 lower than required by statute while purporting to pay legal wages. By paying California employees
8 less than the amounts that they were legally entitled to receive based on the allegations articulated
9 above, including not paying for all hours worked, time rounding, time shaving, off-the-clock work,
10 and/or failing to pay premium wages, all wages were not paid as required.

11 76. Pursuant to Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff further requests
12 that the Court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

13 77. Pursuant to Labor Code Section 218.6, Labor Code Section 1194(a), and Civil Code
14 Section 3287, Plaintiff seeks recovery of pre-judgment interest on all amounts recovered herein.

15 78. At all times pertinent hereto, California Labor Code § 1194 provided:
16 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal
17 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in
18 a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation,
19 including interest thereon, reasonable attorney's fees, and costs of suit." In addition to the above,
20 Plaintiff seeks all amounts authorized by California Labor Code § 1194.

21 79. At all times pertinent hereto, California Labor Code § 1194.2 provides for the recovery
22 of prejudgment interest in any action brought to recover the nonpayment of wages, at the rate
23 specified in Civil Code § 3289. In addition to the above, Plaintiff seeks all amounts authorized by
24 California Labor Code §§ 1194.2 and 218.6.

25 80. Pursuant to, California Labor Code § 558, "Any employer or other person acting on
26 behalf of an employer who violates or causes to be violated" the relevant Labor Code sections cited
27 above, is subject to penalties, damages and other restitution to Plaintiff. In addition to the above,
28 Plaintiff seeks all amounts authorized by California Labor Code § 558.

81. Pursuant to, California Labor Code § 558.1, “Any employer or other person acting on behalf of an employer who violates or causes to be violated” the relevant Labor Code sections cited above, “may be held liable as the employer for such violation.” In addition to the above, Plaintiff seeks all amounts authorized by California Labor Code § 558.1 against each of the Defendants.

82. Plaintiff alleges that Defendants ordered, authorized, approved and/or ratified the conduct herein alleged with the intent to deprive the Plaintiff of monies to which they were and are entitled under California law, so as to increase Defendants' profits, notwithstanding clear statutory obligations, including those which carry criminal penalties for noncompliance.

(Accurate Itemized Paystubs Violations)

1 applicable hourly rates in effect during the pay period and the number of corresponding number or
2 hours worked at each hourly rate by the employee.

3 86. On information and belief, the wage statements Defendants furnished to employees
4 were inaccurate due to Defendants' violations of various sections of the Labor Code, as alleged herein.
5 Defendants' failure to provide accurate wage statements constituted a separate violation of Labor Code
6 § 226.

7 87. Pursuant to Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff further requests
8 that the Court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

9 88. Pursuant to Labor Code Section 218.6, Labor Code Section 1194(a), and Civil Code
10 Section 3287, Plaintiff seeks recovery of pre-judgment interest on all amounts recovered herein.

11 89. At all times pertinent hereto, California Labor Code § 1194 provided:
12 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal
13 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in
14 a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation,
15 including interest thereon, reasonable attorney's fees, and costs of suit." In addition to the above,
16 Plaintiff seeks all amounts authorized by California Labor Code § 1194.

17 90. At all times pertinent hereto, California Labor Code § 1194.2 provides for the recovery
18 of prejudgment interest in any action brought to recover the nonpayment of wages, at the rate
19 specified in Civil Code § 3289. In addition to the above, Plaintiff seeks all amounts authorized by
20 California Labor Code §§ 1194.2 and 218.6.

21 91. Pursuant to, California Labor Code § 558, "Any employer or other person acting on
22 behalf of an employer who violates or causes to be violated" the relevant Labor Code sections cited
23 above, is subject to penalties, damages and other restitution to Plaintiff. In addition to the above,
24 Plaintiff seeks all amounts authorized by California Labor Code § 558.

25 92. Pursuant to, California Labor Code § 558.1, "Any employer or other person acting on
26 behalf of an employer who violates or causes to be violated" the relevant Labor Code sections cited
27 above, "may be held liable as the employer for such violation." In addition to the above, Plaintiff
28 seeks all amounts authorized by California Labor Code § 558.1 against each of the Defendants.

93. Plaintiff alleges that Defendants ordered, authorized, approved and/or ratified the conduct herein alleged with the intent to deprive the Plaintiff of monies to which they were and are entitled under California law, so as to increase Defendants' profits, notwithstanding clear statutory obligations, including those which carry criminal penalties for noncompliance.

SIXTH CAUSE OF ACTION

(For Civil Penalties under Labor Code §§ 2698 et seq. – Against All Defendants)

94. Plaintiff realleges and incorporates by reference all of the allegations in the preceding paragraphs as though fully set forth herein.

95. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

96. Plaintiff is informed and believes and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described above, including, without limitation, Labor Code sections *inter alia*, California Labor Code Sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.

97. By failing to provide the Aggrieved Employees timely, uninterrupted, duty-free meal and rest periods or compensation in lieu thereof; failing to pay all earned wages; failing to provide timely and accurate, itemized wage statements and pay; and failing to timely pay wages during employment, Defendants violated various California Labor Codes entitling the Aggrieved Employees to civil penalties for each of these Labor Code violations.

98. Defendants are liable for civil penalties as provided in the sections of the Labor Code identified above. For those provisions of the Labor Code that do not provide for the recovery of a specific penalty for their violation (e.g., Labor Code § 925), Defendants are liable for the civil penalty established by California Labor Code § 2699(f)—namely, \$100 per aggrieved employee per pay

period for the initial violation, and \$200 per aggrieved employee per pay period for each subsequent violation.

99. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 227.3, 512, and 1198, Defendants are liable for civil penalties of 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 violations [penalty amounts established by Labor Code section 2699(f)(2) and/or sections 210 or 225.5].

100. For violations of Labor Code section 226, Defendants are liable for civil penalties of two hundred fifty dollars (\$250) for each Aggrieved Employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1,000) for each underpaid Aggrieved Employee for each pay period [penalty amounts established by Labor Code section 226.3].

101. For violations of Labor Code section 510 and 512, Defendants are liable for civil penalties of fifty dollars (\$50) for each Aggrieved Employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid Aggrieved Employee for each pay period [penalty amounts established by Labor Code section 558].

102. For violations of Labor Code section 1174, Defendants are liable for civil penalties of 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 violations [penalty amounts established by Labor Code section 2699(f)(2)]. To the extent Defendants willfully failed to maintain proper payroll records, Defendants are liable for a civil penalty of \$500 for each Aggrieved Employee per pay period [penalty amount established per Labor Code section 1174.5].

103. For violations of Labor Code sections 1194 and 1197, Defendants are liable for civil penalties of one hundred dollars (\$100) for each underpaid Aggrieved Employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid Aggrieved Employee for each pay period [penalty amounts established by Labor Code section 1197.1].

104. Pursuant to California Labor Code § 2699(g)(1), Plaintiff and other Aggrieved Employees are entitled to recover the civil penalties, as well as attorney's fees and costs.

105. Pursuant to Labor Code § 2698, et seq., Plaintiff, and all other Aggrieved Employees seek to recover civil penalties, as otherwise provided by statute and wage order, for which Defendants are liable as a result of its violations of the California Labor Code and applicable wage order(s) in an amount to be proven at trial. These penalties include, but are not limited to, those provided by Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and IWC Wage Orders. Plaintiff and Aggrieved Employees further seek an award of reasonable attorney fees and costs pursuant to this section.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

1. For civil penalties in an amount to be determined at trial and which exceeds the minimum \$25,000 threshold for jurisdiction of this Court;
2. For costs and attorney's fees; and
3. For such other and further relief the court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: February 18, 2025

CALL & JENSEN
A Professional Corporation
Joshua G. Simon
Travis A. Beck

By: Travis A. Beck

Attorneys for Plaintiff Justin Gardino

EXHIBIT 1



LAWYERS

610 NEWPORT CENTER DRIVE, SUITE 700
NEWPORT BEACH, CALIFORNIA 92660

TELEPHONE 949.717.3000
FACSIMILE 949.717.3100

CALLJENSEN.COM

November 20, 2024

OUR FILE NUMBER
GAR15-01

Via Online Filing (dir.ca.gov)

Attn: PAGA Administrator
Labor & Workforce Development Agency

Re: Notice of Labor Code § 2699, et seq. "PAGA" Violations
Claimant: Justin Gardino
Respondent: Poway Weapons and Gear

Dear California Labor & Workforce Development Agency:

Pursuant to Labor Code § 2699.3, this letter provides notice to the Labor and Workforce Development Agency ("LWDA"), Poway Weapons and Gear ("PW&G"), and all affiliated entities (the "Company") that Complainant Justin Gardino ("Claimant") intends to file a civil lawsuit based on claims, among others, arising under the Private Attorney General Act, California Labor Code §§ 2699, *et seq.*, ("PAGA") if LWDA declines to pursue the matter on its own. Call & Jensen, APC has been retained by Claimant in this matter.

Claimant was employed by the Company from September 22, 2022, to present as a non-exempt, hourly-paid employee. Claimant began his employment as a Range Associate, before eventually being promoted to Training Officer. Claimant's employment has entirely been based out of the Company's facility located at 13550 Danielson St., Poway, CA 92064.

Claimant intends to bring a representative action seeking penalties for violation of PAGA. Claimant is seeking penalties on his behalf and in a representative capacity of the State of California and all currently and former hourly-paid and/or non-exempt employees who worked for the Company in the State of California during the relevant statutory period ("Aggrieved Employees"). As noted above, this letter is being sent in compliance with California Labor Code § 2699.3 and shall serve as Claimant's notice of the provisions of the California Labor Codes alleged to have been violated.

The Company's misconduct violates numerous provisions of the Labor Code, including but not limited to as detailed below, The Company violated several of California's wage and hour laws during California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699, penalties pursuant to the applicable California Labor Code sections, and attorneys' fees and costs.

The claims made on behalf of Claimant and Aggrieved Employees are based upon the following facts and theories:

I. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY.

The Company failed to accurately record the actual time worked by Claimant and Aggrieved Employees. The Company failed to properly account for time worked and failed to pay proper wages when Claimant and Aggrieved Employees worked during their meal and rest periods.

As a result of the foregoing practices, The Company failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay. Accordingly, The Company violated the applicable California Labor Code sections.

II. MEAL BREAK VIOLATIONS

California law requires the Company to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). The Company must provide a second meal period of no less than thirty (30) minutes before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. *Id.* For each day that an employer fails to provide compliant meal period(s), the employer must pay the employee a meal penalty equal to one hour of pay at the employee's regular rate of compensation. *Id.*

During the relevant time period, the Company failed to provide Claimant and other Aggrieved Employees with legally compliant 30-minute meal periods. Claimant and other Aggrieved Employees were required by the Company to work more than five (5) hours per day but were not provided with uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. The Company regularly required Claimant and other Aggrieved Employees to work through their first meal periods, to take their first meal period after their fifth (5th) hour of work. Meal breaks, when provided, were oftentimes interrupted and/or cut short. The Company's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete, and duty-free meal periods because, amongst other reasons: (1) The Company did not have legally compliant policies regarding the provision and timing of meal periods or systematically disregarded their own purported meal period policies; (2) The Company's management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3) the Company failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) The Company failed to adequately inform and

train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) The Company failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) The Company required Claimant and other Aggrieved Employees to respond to work-related requests at all times, including during meal periods; and (7) The Company's policy and culture prevented Claimant and other Aggrieved Employees from maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods. Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for each day a compliant meal period was not provided to them in compliance with California law.

III. REST BREAK VIOLATIONS

California law requires the Company to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. For each day that an employer fails to authorize and permit a compliant rest period, the employer owes the employee one hour of pay at the employee's regular rate of compensation. Cal. Lab. Code § 226.7(c).

The Company failed to authorize and permit Claimant and other Aggrieved Employees to take compliant 10-minute rest periods. The Company required Claimant and other Aggrieved Employees to work through rest periods. Claimant and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. In the rare event that a rest period was taken, it was frequently interrupted or cut short.

The Company's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) The Company did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) The Company's management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) The Company failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) The Company failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) The Company failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) The Company required Claimant and other Aggrieved Employees to respond to work-related requests at all times, including during rest periods; and (7) The Company's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

IV. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than

those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 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 1st and the 10th day of the following month.

California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, The Company failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, inter alia, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, The Company violated California Labor Code sections 204(a), 216, 223.

V. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, inter alia, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for taking timely, uninterrupted, and duty-free meal periods because of the priority placed on which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described above, the wage statements provided to Claimant and other Aggrieved Employees failed to include the actual hours worked, the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. Accordingly, The Company violated California Labor Code section 226(a).

If you have any questions or require additional information, please feel free to contact us. Thank you for your attention to this matter.

Very truly yours,



Travis A. Beck
For Call & Jensen
A Professional Corporation

cc: (By U.S. Certified Mail/Return Receipt Requested)
Poway Weapons & Gear
13550 Danielson St., Poway, CA 92064

Carlie Peisley

From: Travis A. Beck
Sent: Wednesday, November 20, 2024 4:32 PM
To: Carlie Peisley
Cc: Joshua Simon; Connie Valles
Subject: Fw: Thank you for submission of your PAGA Case.

FYI

From: noreply@salesforce.com <noreply@salesforce.com> on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, November 20, 2024 4:30:44 PM
To: Travis A. Beck <tbeck@calljensen.com>
Subject: Thank you for submission of your PAGA Case.

11/20/2024

LWDA Case No. LWDA-CM-1062759-24
Law Firm : Call & Jensen, APC
Plaintiff Name : Justin Gardino
Employer: Poway Weapons & Gear, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: https://urldefense.proofpoint.com/v2/url?u=http-3A_labor.ca.gov_Private-5FAttorneys-5FGeneral-5FAct.htm&d=DwlCaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=Ki8zqDO9Y7n3kM8A77DPi2vlwWDkYO2NUU6d29nVoYw&m=GYK39uaR-SsxTk d7myaPu4qK00JwVMmD9g8x2qemQPeX1RHX-OisDIzbNOMuKdSw&s=mJR4-b8URHGoDY4vm7SY-0i3UqP_7_bQG8WKZKbyZA&e=

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Poway, CA 92064



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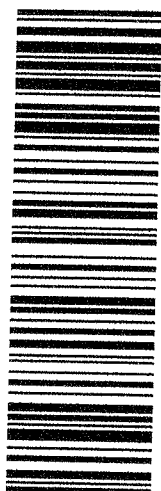
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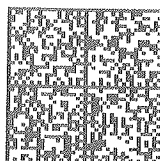
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PS Form 3811, July 2015 PSN 7530-02-000-9053

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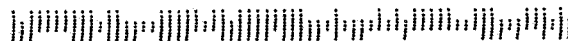


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[Handwritten Signature]

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☐ Addressee

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