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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
1/28/2025 11:58:44 AM
Clerk of the Superior Court
By S. Felix ,Deputy Clerk

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

10 ABIUD IVAN PEREZ, an individual, on
11 behalf of the State of California and all
12 similarly aggrieved employees,

13 Plaintiffs,

14 v.

15 FREEDOM FOREVER, LLC, a Delaware
16 limited liability company; and DOES 1-50,
17 Inclusive,

18 Defendants.

Case No. 25CU004970C

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

Civil Penalties Pursuant to Labor Code §2699,
et seq., for violations of Labor Code §§ 201,
201.3, 202, 203, 204, 210, 218.5, 218.6, 221,
226, 226.2, 226.3, 226.7, 246, 510, 512, 558,
1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14,
1198, 1199, 2802, 2804 and the California
Code of Regulations

Judge:
Dept:

Date Action Filed:

19
20 PLAINTIFF ABIUD IVAN PEREZ (hereinafter “PLAINTIFF”), an individual, on behalf of
21 the people of the State of California and as “AGGRIEVED EMPLOYEE” acting as a private
22 attorney general under the Labor Code Private Attorney General Action of 2004, § 2699, *et seq.*
23 (“PAGA”) only, alleges on information and belief, except for their own acts and knowledge which
24 are based on personal knowledge, the following:

25 **INTRODUCTION**

26 1. PLAINTIFF brings this action against FREEDOM FOREVER LLC, a Delaware limited
27 liability company, (“DEFENDANT”) seeking only to recover PAGA civil penalties for himself, and
28 on behalf of all current and former aggrieved employees that worked for DEFENDANT.

1 PLAINTIFF does **not seek to recover anything other than penalties as permitted by California**
2 **Labor Code § 2699**. To the extent that statutory violations are mentioned for wage violations,
3 PLAINTIFF does not seek underlying general and/or special damages for those violations in this
4 action, but simply the civil penalties permitted by California Labor Code § 2699. Notwithstanding,
5 PLAINTIFF is not abandoning his right to pursue his individual claims for, *inter alia*, Defendant's
6 alleged wage violations, and/or general or special damages arising from those violations, and they
7 fully intend to, at a future date, pursue claims for those individual claims and damages.

8 2. California has enacted the PAGA to permit an individual to bring an action on behalf of
9 themselves and on behalf of others for PAGA penalties *only*, which is the precise and sole nature of
10 this action.

11 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for DEFENDANT'S
12 violations under PAGA and solely for the relief as permitted by PAGA – that is, penalties and any
13 other relief the Court deems proper pursuant to the PAGA. Nothing in this complaint should be
14 construed as attempting to obtain any relief that would not be available in a PAGA-only action.

15 **THE PARTIES**

16 4. Defendant FREEDOM FOREVER LLC is a Delaware limited liability company that at all
17 relevant times mentioned herein conducted and continues to conduct substantial and regular
18 business throughout California.

19 5. DEFENDANT provides solar power to commercial and residential homes throughout the
20 state of California, including the County of San Diego.

21 6. PLAINTIFF PEREZ was employed by DEFENDANT in California from July 5, 2022 to
22 August 9, 2024 as a non-exempt employee, paid an hourly basis, and entitled to the legally required
23 meal and rest periods and payment of minimum and overtime wages due for all time worked.

24 7. The true names and capacities, whether individual, corporate, subsidiary, partnership,
25 associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to
26 PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ.
27 Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names
28 and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed

1 and believes, and based upon that information and belief allege, that the Defendants named in this
2 Complaint, including DOES 1 through 50, inclusive (hereinafter collectively with
3 “DEFENDANTS”), are responsible in some manner for one or more of the events and happenings
4 that proximately caused the injuries and damages hereinafter alleged.

5 8. The agents, servants and/or employees of the DEFENDANTS and each of them acting on
6 behalf of the DEFENDANTS acted within the course and scope of it, or its authority as the agent,
7 servant and/or employee of the DEFENDANTS, and personally participated in the conduct alleged
8 herein on behalf of the DEFENDANTS with respect to the conduct alleged herein. Consequently,
9 the acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS
10 are jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as
11 a proximate result of the conduct of the DEFENDANTS’ agents, servants and/or employees.

12 9. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of
13 PLAINTIFF’S employer, within the meaning of California Labor Code § 558, who violated or
14 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
15 regulating hours and days of work in any order of the Industrial Welfare Commission and, as such,
16 are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all
17 relevant times.

18 10. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of
19 PLAINTIFF’S employer either individually or as an officer, agent, or employee of another person,
20 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
21 employee a wage less than the minimum fixed by California state law, and as such, are subject to
22 civil penalties for each underpaid employee.

23 11. PLAINTIFF is informed and believes, and thereon alleges that at all times hereinafter
24 mentioned, DEFENDANTS were and are subject to the Labor Code and IWC Wage Orders as
25 employers, whose employees were and are engaged throughout this county and the State of
26 California.

27 12. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS have
28 increased their profit by violating state wage and hour laws by, among other things:

- a. Failing to pay all wages (including minimum wages and overtime wages);
- b. Failing to provide lawful meal periods or compensation in lieu thereof;
- c. Failing to authorize or permit lawful rest breaks or provide compensation in lieu thereof;
- d. Failing to provide accurate itemized wage statements;
- e. Failing to reimburse business expenses;
- f. Failing to pay all wages due upon separation of employment; and
- g. Other labor code violations.

13. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently or formerly employed by DEFENDANT during the PAGA PERIOD, bring this representative action pursuant to Labor Code §2699, *et seq.* seeking penalties for DEFENDANT’S violations of California Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804 and 2698, *et seq.* and the applicable Wage Orders. Based upon the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

JURISDICTION AND VENUE

14. This is a representative action pursuant to Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”). The civil penalties sought by PLAINTIFF exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

15. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

16. This Court has jurisdiction over all DEFENDANT because, upon information and belief, they are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction

1 over them by the California courts consistent with traditional notions of fair play and substantial
2 justice.

3 17. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395
4 and 395.5, because DEFENDANT (i) currently maintain and at all relevant times maintained
5 business in this County and/or conducts substantial business in this County, and (ii) committed the
6 wrongful conduct herein alleged in this County against AGGRIEVED EMPLOYEES.

7 **THE CONDUCT**

8 18. During the PAGA PERIOD, DEFENDANT failed to accurately calculate and pay
9 PLAINTIFF and other AGGRIEVED EMPLOYEES for all their time worked, including minimum
10 and overtime wages. DEFENDANT unlawfully and unilaterally failed to accurately calculate wages
11 for time worked and penalties for meal and rest periods owed to PLAINTIFF and other
12 AGGRIEVED EMPLOYEES in order to avoid paying these employees the correct compensation.
13 As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited wages due to them for
14 working without compensation at the correct minimum wage and overtime rates. DEFENDANT'S
15 uniform policy and practice to not pay the AGGRIEVED EMPLOYEES the correct compensation
16 for all time worked in accordance with applicable law is evidence by DEFENDANT's business
17 records.

18 19. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT is required to
19 pay PLAINTIFF and AGGRIEVED EMPLOYEES for all their time worked, meaning the time
20 during which an employee is subject to the control of an employer, including all the time the
21 employee is suffered or permitted to work. DEFENDANT required PLAINTIFF and AGGRIEVED
22 EMPLOYEES to work without paying them for all the time they are under DEFENDANT's control.
23 Specifically, DEFENDANT required PLAINTIFF to work while clocked out. As a result, the
24 PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited minimum wage and overtime
25 compensation by regularly working without their time being accurately recorded and without
26 compensation at the applicable minimum wage and overtime rates. DEFENDANT's uniform policy
27 and practice not to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is
28 evidenced by DEFENDANT's business records.

1 20. In violation of the applicable sections of the California Labor Code and the requirements of
2 the Industrial Welfare Commission ("IWC") Wage Orders, DEFENDANT as a matter of company
3 policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and
4 the other AGGRIEVED EMPLOYEES at the correct rate of pay for all overtime worked and correct
5 meal premium pay for all meal period violations. This uniform policy and practice of DEFENDANT
6 is intended to purposefully avoid the payment of the correct overtime compensation as required by
7 California law which allowed DEFENDANT to illegally profit and gain an unfair advantage over
8 competitors who complied with the law. To the extent equitable tolling operates to toll claims by
9 the AGGRIEVED EMPLOYEES against DEFENDANT, the PAGA PERIOD should be adjusted
10 accordingly.

11 21. During the PAGA PERIOD, DEFENDANT failed to provide all the legally required off-
12 duty meal breaks to PLAINTIFF and the other Aggrieved Employees as required by the applicable
13 Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and Aggrieved
14 Employees did not prevent these employees from being relieved of all of their duties for the legally
15 required off-duty meal periods. DEFENDANT'S meal period policies and practices were unlawful
16 because PLAINTIFF and other Aggrieved Employees were far too over-booked and overworked to
17 take a timely off-duty thirty (30) minute meal period. As a result of their rigorous work schedules,
18 PLAINTIFF and other Aggrieved Employees were often not fully relieved of duty by DEFENDANT
19 for their meal periods. Additionally, DEFENDANT's failure to provide PLAINTIFF and the
20 Aggrieved Employees with legally required meal breaks prior to their fifth (5th) hour of work is
21 evidenced by DEFENDANT's business records. As a result, PLAINTIFF and other members of the
22 Aggrieved Employees forfeited meal breaks without additional compensation and in accordance
23 with DEFENDANT's strict corporate policy and practice.

24 22. Further, upon information and belief, DEFENDANT failed to provide PLAINTIFF and
25 Aggrieved Employees with a second off-duty meal period on workdays in which these employees
26 were required by DEFENDANT to work ten (10) hours of work from time to time. As a result,
27 DEFENDANT'S failure to provide PLAINTIFF and the Aggrieved Employees with legally required
28 meal breaks is evidenced by DEFENDANT's business records which contain no record of these

1 breaks.

2 23. In addition, DEFENDANT failed to compensate PLAINTIFF and Aggrieved Employees for
3 their rest periods as required by the applicable Wage Order and Labor Code. DEFENDANT did not
4 have a policy or practice which paid for off-duty rest periods to PLAINTIFF and the other Aggrieved
5 Employees. As a result, DEFENDANT's failure to provide PLAINTIFF and the Aggrieved
6 Employees with all the legally required paid rest periods is evidenced by DEFENDANT's business
7 records.

8 24. On information and belief, PLAINTIFF and other Aggrieved Employees were required to
9 work while not clocked in. DEFENDANT maintained a company-wide policy of refusing to pay
10 Aggrieved Employees, like PLAINTIFF, for all hours worked, even during training. Specifically,
11 DEFENDANT maintained a company-wide pattern and practice of altering employees' timecards
12 to eliminate numerous hours worked. As a result, DEFENDANT failed to compensate PLAINTIFF
13 and the Aggrieved Employees wages for all hours worked.

14 25. Under California law, every employer shall pay to each employee, on the established payday
15 for the period involved, not less than the applicable minimum wage for all hours worked in the
16 payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.
17 Hours worked is defined in the applicable Wage Order as "the time during which an employee is
18 subject to the control of an employer, and includes all the time the employee is suffered or permitted
19 to work, whether or not required to do so.

20 26. From time to time, when DEFENDANT did not accurately record PLAINTIFF'S and other
21 Aggrieved Employees' missed meal and rest breaks and/or also failed to pay the proper minimum
22 wages, the wage statements issued to PLAINTIFF and other Aggrieved Employees by
23 DEFENDANT violated California law, and in particular, Labor Code Section 226(a). Aside, from
24 the violations listed above in this paragraph, DEFENDANT failed to issue PLAINTIFF and
25 Aggrieved Employees an itemized wage statement that lists all the requirements under California
26 Labor Code 226 *et seq.*

27 27. DEFENDANT as a matter of corporate policy, practice and procedure, intentionally,
28 knowingly and systematically failed to reimburse and indemnify PLAINTIFF and the other

1 Aggrieved Employees for required business expenses incurred by the PLAINTIFF and other
2 Aggrieved Employees in direct consequence of discharging their duties on behalf of DEFENDANT.
3 Under California Labor Code Section 2802, employers are required to indemnify employees for all
4 expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
5 states that "an employer shall indemnify his or her employee for all necessary expenditures or losses
6 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
7 obedience to the directions of the employer, even though unlawful, unless the employee, at the time
8 of obeying the directions, believed them to be unlawful."

9 28. In violation of the applicable sections of the California Labor Code and the requirements of
10 the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of company
11 policy, practice and procedure, intentionally, knowingly and systematically failed to compensate
12 PLAINTIFF and the other Aggrieved Employees for missed meal and rest periods. This uniform
13 policy and practice of DEFENDANT is intended to purposefully avoid the payment for all time
14 worked as required by California law which allows DEFENDANT to illegally profit and gain an
15 unfair advantage over competitors who complied with the law. To the extent equitable tolling
16 operates to toll claims by the Aggrieved Employees against DEFENDANT, the PAGA PERIOD
17 should be adjusted accordingly.

18 29. As a result of DEFENDANT's intentional disregard of the obligation to meet this burden,
19 DEFENDANT failed to properly calculate and/or pay all required compensation for work performed
20 by the members of the CALIFORNIA CLASS and violated the California Labor Code and
21 regulations promulgated thereunder as herein alleged.

22 30. Specifically, as to PLAINTIFF, DEFENDANT failed to provide all the legally required off-
23 duty meal breaks to them and paid rest periods to them as required by the applicable Wage Order
24 and Labor Code. DEFENDANT failed to compensate PLAINTIFF for his missed meal and rest
25 breaks. The nature of the work performed by PLAINTIFF did not prevent them from being relieved
26 of all of their duties for the legally required off-duty meal periods. Further, DEFENDANT failed
27 to provide PLAINTIFF with a second off-duty meal period each workday in which PLAINTIFF was
28 required by DEFENDANT to work ten (10) hours of work. As a result, DEFENDANT'S failure to

1 provide PLAINTIFF with the legally required second off-duty meal period is evidenced by
2 DEFENDANT's business records. From time to time, and as a result of DEFENDANT not
3 accurately recording all missed meal and rest periods, and failing to pay minimum wages due for all
4 time worked, the wage statements issued to PLAINTIFF by DEFENDANT violated California law,
5 and in particular, Labor Code Section 226(a). To date, DEFENDANT has yet to pay PLAINTIFF
6 all of their wages due to them and all premiums due to them for missed meal and rest breaks and
7 DEFENDANT has failed to pay any penalty wages owed to them under California Labor Code
8 Section 203.

9 31. From time-to-time as discussed *supra*, PLAINTIFF and AGGRIEVED EMPLOYEES were
10 from time to time interrupted with work assignments during their off-duty meal periods without
11 additional compensation from DEFENDANT.

12 32. DEFENDANTS directed and directly benefited from the uncompensated off-the-clock work
13 performed by PLAINTIFF and the AGGRIEVED EMPLOYEES.

14 33. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees
15 with an accurate itemized wage statement in writing showing, among other things, gross wages
16 earned and all applicable hourly rates in effect during the pay period and the corresponding amount
17 of time worked at each hourly rate. From time to time, DEFENDANT violated Cal. Lab. Code §
18 226 by failing to provide accurate wage statements. Additionally, DEFENDANT violated Cal. Lab.
19 Code § 226(a)(8) by failing to list the correct legal entity that employed PLAINTIFF. DEFENDANT
20 failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under
21 California Labor Code 226 *et seq.* As a result, DEFENDANT provided PLAINTIFF and the other
22 AGGRIEVED EMPLOYEES with wage statements which violate Cal. Lab. Code § 226 *et seq.*

23 34. Cal. Lab. Code § 204 provides that “[a]ll wages. . . earned by any person in any employment
24 are due and payable twice during each calendar month, on days designated in advance by the
25 employer as the regular paydays.” Further, Cal. Lab. Code § 204(d) expressly requires employers
26 to pay employees all wages owed within seven (7) days of the close of the payroll period.
27 DEFENDANT from time to time failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES
28 all wages owed to them within seven (7) days of the close of the payroll period.

35. By reason of this uniform conduct applicable to PLAINTIFF and all AGGRIEVED EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which fails to accurately calculate and record the correct compensation for all time worked by PLAINTIFF and other AGGRIEVED EMPLOYEES. The proper calculation of these employees' compensation is the DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the obligation to meet this burden, DEFENDANT fails to properly calculate and/or pay all required compensation for work performed by the AGGRIEVED EMPLOYEES and violated the California Labor Code and regulations promulgated thereunder as herein alleged.

36. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seek penalties for those violations that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

FIRST CAUSE OF ACTION

For Violation of the Private Attorneys General Act

[Cal. Lab . Code §§ 2698 ET SEQ. (“PAGA”)]

(By PLAINTIFF and Against All DEFENDANTS)

37. PLAINTIFF hereby re-alleges and incorporates by reference the previous paragraphs as though fully set forth herein, the prior paragraphs of this Complaint.

38. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorney generals to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

1 39. PLAINTIFF, and such persons that may be added from time to time who satisfy the
2 requirements and exhaust the administrative procedures under the Private Attorney General Act,
3 bring this Representative Action on behalf of the State of California with respect to themselves and
4 all individuals who are or previously were employed by DEFENDANTS in California during the
5 time period of November 19, 2023 until the present (the "AGGRIEVED EMPLOYEES").

6 40. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for
7 a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
8 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
9 violation of the Labor Code may, as an alternative, be recovered through civil action brought by an
10 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
11 to the procedures specified in Labor Code § 2699.3.

12 41. For all provisions of the Labor Code except those for which a civil penalty is
13 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
14 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred
15 dollars (\$200) for each aggrieved employee per pay period for each subsequent pay period in which
16 Defendants violated these provisions of the Labor Code.

17 42. Defendant's conduct violates numerous Wage Orders and Labor Code sections
18 including, but not limited to, the following:

19 a. Violation of Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226,
20 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199,
21 2802, 2804 and 2698 for failure to timely pay all earned wages (including minimum wage and
22 overtime wages) owed to Plaintiff and other aggrieved employees during his employment and upon
23 separation of employment as herein alleged;

24 b. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to
25 Plaintiff and other aggrieved employees failure to pay premium wages for missed meal periods and
26 herein alleged;

27 c. Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other
28 aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;

1 d. Violation of Labor Code § 226 for failure to provide accurate itemized wage
2 statements to Plaintiff and other aggrieved employees as herein alleged;

3 e. Violation of Labor Code § 1174 and 1174.5 for failure to maintain accurate and
4 complete records showing, among other things, the hours worked daily and the wages paid to
5 aggrieved employees; and

6 f. Violation of Labor Code § 2800 and 2802 for failure to reimburse Plaintiffs and other
7 aggrieved employees as herein alleged.

8 43. Each Plaintiff is an “AGGRIEVED EMPLOYEE” because they were employed by
9 the alleged violator and had one or more of the violations committed against them, and therefore are
10 properly suited to represent the interest of all the other AGGRIEVED EMPLOYEES.

11 44. On November 19, 2024, PLAINTIFF ABIUD IVAN PEREZ gave written notice by
12 electronic submission to the Labor and Workforce Development Agency (the "Agency") and by
13 certified mail to the employer of the specific provisions of this code alleged to have been violated
14 as required by Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this
15 reference herein. The statutory waiting period for PLAINTIFF PEREZ to add these allegations to
16 the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now
17 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the
18 State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

19 45. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover
20 civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

21 46. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
22 herein.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, PLAINTIFF, prays for judgment against each DEFENDANT, jointly and
25 severally, as follows:

26 1. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

27 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
28 General Act of 2004;

- 1 b. An Award of penalties, attorneys' fees and costs of suit, as allowable under the law,
2 including, but not limited to, pursuant to Labor Code § 201, 202, 203, 204, 226,
3 §226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 2800, 2802, and §2699(g); and
4 c. For such other relief as the Court deems just and proper.

5
6 Dated: January 24, 2025

7 **BARVIÉ LAW, APC**

8
9 By



NICOLE BARVIÉ, Esq.
Attorneys for Plaintiff(s)

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EXHIBIT 1

Barvié

— LAW —

November 19, 2024

VIA ONLINE FILING TO LWDA and CERTIFIED MAIL TO DEFENDANT

Labor & Workforce Development Agency Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, CA 94612 PAGA@dir.ca.gov https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html <i>Via Online Electronic Submission</i>	Freedom Forever, LLC. 43445 Business Park Drive, Suite 104 Temecula, CA 92590 <i>Via Certified Mail</i>
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Re: Notice of Violation of California Labor Code Sections 201, 202, 203, 204 et seq., 210, 218, 221, 226(a), 226(a)(8), 226.7, 227.3, 351, 510, 512, 558, 1194, 1197, 1197.1, 1197.14, 1198, 2800, 2802, 2804 and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff Abiud Ivan Perez (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Freedom Forever, LLC. a Delaware Corporation (“Defendant”). Plaintiff has been employed by Defendant in California beginning July 2022 to August 2024 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks, as well as certain non-discretionary incentive payments. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Defendant also failed to correctly calculate Plaintiff’s regular rate of pay for purposes of payment of overtime, premium pay, and sick time pay. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages. As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing, violates Labor Code §§ 201, 202, 203, 204 et seq., 226(a), 226.3, 226.7, 210, 218, 221, 226(a), 226(a)(8), 226.7, 227.3, 351, 510, 512, 558, 1194, 1197,





1197.1, 1197.14, 1198, 1199, 2802, 2804 and the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant during the relevant claim period.

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely,

Nicole Barvié
Attorney for Plaintiff

Enclosure: Plaintiff's Complaint.

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7 Attorney for PLAINTIFF ABIUD IVAN PEREZ

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

10 ABIUD IVAN PEREZ, an individual, on
11 behalf of the State of California and all
12 similarly aggrieved employees,

13 Plaintiffs,

14 v.

15 FREEDOM FOREVER, LLC, a Delaware
16 limited liability company; and DOES 1-50,
17 Inclusive,

18 Defendants.

Case No.

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

Civil Penalties Pursuant to Labor Code §2699,
et seq., for violations of Labor Code §§ 201,
201.3, 202, 203, 204, 210, 218.5, 218.6, 221,
226, 226.2, 226.3, 226.7, 246, 510, 512, 558,
1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14,
1198, 1199, 2802, 2804 and the California
Code of Regulations

Judge:

Dept:

Date Action Filed:

19
20 PLAINTIFF ABIUD IVAN PEREZ (hereinafter "PLAINTIFF"), an individual, on behalf
21 of the people of the State of California and as "AGGRIEVED EMPLOYEE" acting as a private
22 attorney general under the Labor Code Private Attorney General Action of 2004, § 2699, *et seq.*
23 ("PAGA") only, alleges on information and belief, except for their own acts and knowledge which
24 are based on personal knowledge, the following:

25 **INTRODUCTION**

26 1. PLAINTIFF brings this action against FREEDOM FOREVER LLC, a Delaware limited
27 liability company, ("DEFENDANT") seeking only to recover PAGA civil penalties for himself, and
28 on behalf of all current and former aggrieved employees that worked for DEFENDANT.

1 PLAINTIFF does not seek to recover anything other than penalties as permitted by California
2 Labor Code § 2699. To the extent that statutory violations are mentioned for wage violations,
3 PLAINTIFF does not seek underlying general and/or special damages for those violations in this
4 action, but simply the civil penalties permitted by California Labor Code § 2699. Notwithstanding,
5 PLAINTIFF is not abandoning his right to pursue his individual claims for, *inter alia*, Defendant's
6 alleged wage violations, and/or general or special damages arising from those violations, and they
7 fully intend to, at a future date, pursue claims for those individual claims and damages.

8 2. California has enacted the PAGA to permit an individual to bring an action on behalf of
9 themselves and on behalf of others for PAGA penalties *only*, which is the precise and sole nature of
10 this action.

11 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for DEFENDANT'S
12 violations under PAGA and solely for the relief as permitted by PAGA – that is, penalties and any
13 other relief the Court deems proper pursuant to the PAGA. Nothing in this complaint should be
14 construed as attempting to obtain any relief that would not be available in a PAGA-only action.

15 THE PARTIES

16 4. Defendant FREEDOM FOREVER LLC is a Delaware limited liability company that at all
17 relevant times mentioned herein conducted and continues to conduct substantial and regular
18 business throughout California.

19 5. DEFENDANT provides solar power to commercial and residential homes throughout the
20 state of California, including the County of San Diego.

21 6. PLAINTIFF PEREZ was employed by DEFENDANT in California from July 5, 2022 to
22 August 9, 2024 as a non-exempt employee, paid an hourly basis, and entitled to the legally required
23 meal and rest periods and payment of minimum and overtime wages due for all time worked.

24 7. The true names and capacities, whether individual, corporate, subsidiary, partnership,
25 associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to
26 PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ.
27 Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names
28 and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed

1 and believes, and based upon that information and belief allege, that the Defendants named in this
2 Complaint, including DOES 1 through 50, inclusive (hereinafter collectively with
3 “DEFENDANTS”), are responsible in some manner for one or more of the events and happenings
4 that proximately caused the injuries and damages hereinafter alleged.

5 8. The agents, servants and/or employees of the DEFENDANTS and each of them acting on
6 behalf of the DEFENDANTS acted within the course and scope of it, or its authority as the agent,
7 servant and/or employee of the DEFENDANTS, and personally participated in the conduct alleged
8 herein on behalf of the DEFENDANTS with respect to the conduct alleged herein. Consequently,
9 the acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS
10 are jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as
11 a proximate result of the conduct of the DEFENDANTS’ agents, servants and/or employees.

12 9. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of
13 PLAINTIFF’S employer, within the meaning of California Labor Code § 558, who violated or
14 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
15 regulating hours and days of work in any order of the Industrial Welfare Commission and, as such,
16 are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all
17 relevant times.

18 10. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of
19 PLAINTIFF’S employer either individually or as an officer, agent, or employee of another person,
20 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
21 employee a wage less than the minimum fixed by California state law, and as such, are subject to
22 civil penalties for each underpaid employee.

23 11. PLAINTIFF is informed and believes, and thereon alleges that at all times hereinafter
24 mentioned, DEFENDANTS were and are subject to the Labor Code and IWC Wage Orders as
25 employers, whose employees were and are engaged throughout this county and the State of
26 California.

27 12. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS have
28 increased their profit by violating state wage and hour laws by, among other things:

- a. Failing to pay all wages (including minimum wages and overtime wages);
- b. Failing to provide lawful meal periods or compensation in lieu thereof;
- c. Failing to authorize or permit lawful rest breaks or provide compensation in lieu thereof;
- d. Failing to provide accurate itemized wage statements;
- e. Failing to reimburse business expenses;
- f. Failing to pay all wages due upon separation of employment; and
- g. Other labor code violations.

13. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently or formerly employed by DEFENDANT during the PAGA PERIOD, bring this representative action pursuant to Labor Code §2699, *et seq.* seeking penalties for DEFENDANT'S violations of California Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804 and 2698, *et seq.* and the applicable Wage Orders. Based upon the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

JURISDICTION AND VENUE

14. This is a representative action pursuant to Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) ("PAGA"). The civil penalties sought by PLAINTIFF exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

15. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

16. This Court has jurisdiction over all DEFENDANT because, upon information and belief, they are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction

1 over them by the California courts consistent with traditional notions of fair play and substantial
2 justice.

3 17. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395
4 and 395.5, because DEFENDANT (i) currently maintain and at all relevant times maintained
5 business in this County and/or conducts substantial business in this County, and (ii) committed the
6 wrongful conduct herein alleged in this County against AGGRIEVED EMPLOYEES.

7 **THE CONDUCT**

8 18. During the PAGA PERIOD, DEFENDANT failed to accurately calculate and pay
9 PLAINTIFF and other AGGRIEVED EMPLOYEES for all their time worked, including minimum
10 and overtime wages. DEFENDANT unlawfully and unilaterally failed to accurately calculate wages
11 for time worked and penalties for meal and rest periods owed to PLAINTIFF and other
12 AGGRIEVED EMPLOYEES in order to avoid paying these employees the correct compensation.
13 As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited wages due to them for
14 working without compensation at the correct minimum wage and overtime rates. DEFENDANT'S
15 uniform policy and practice to not pay the AGGRIEVED EMPLOYEES the correct compensation
16 for all time worked in accordance with applicable law is evidence by DEFENDANT's business
17 records.

18 19. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT is required to
19 pay PLAINTIFF and AGGRIEVED EMPLOYEES for all their time worked, meaning the time
20 during which an employee is subject to the control of an employer, including all the time the
21 employee is suffered or permitted to work. DEFENDANT required PLAINTIFF and AGGRIEVED
22 EMPLOYEES to work without paying them for all the time they are under DEFENDANT's control.
23 Specifically, DEFENDANT required PLAINTIFF to work while clocked out. As a result, the
24 PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited minimum wage and overtime
25 compensation by regularly working without their time being accurately recorded and without
26 compensation at the applicable minimum wage and overtime rates. DEFENDANT's uniform policy
27 and practice not to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is
28 evidenced by DEFENDANT's business records.

1 20. In violation of the applicable sections of the California Labor Code and the requirements of
2 the Industrial Welfare Commission ("IWC") Wage Orders, DEFENDANT as a matter of company
3 policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and
4 the other AGGRIEVED EMPLOYEES at the correct rate of pay for all overtime worked and correct
5 meal premium pay for all meal period violations. This uniform policy and practice of DEFENDANT
6 is intended to purposefully avoid the payment of the correct overtime compensation as required by
7 California law which allowed DEFENDANT to illegally profit and gain an unfair advantage over
8 competitors who complied with the law. To the extent equitable tolling operates to toll claims by
9 the AGGRIEVED EMPLOYEES against DEFENDANT, the PAGA PERIOD should be adjusted
10 accordingly.

11 21. During the PAGA PERIOD, DEFENDANT failed to provide all the legally required off-
12 duty meal breaks to PLAINTIFF and the other Aggrieved Employees as required by the applicable
13 Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and Aggrieved
14 Employees did not prevent these employees from being relieved of all of their duties for the legally
15 required off-duty meal periods. DEFENDANT'S meal period policies and practices were unlawful
16 because PLAINTIFF and other Aggrieved Employees were far too over-booked and overworked to
17 take a timely off-duty thirty (30) minute meal period. As a result of their rigorous work schedules,
18 PLAINTIFF and other Aggrieved Employees were often not fully relieved of duty by DEFENDANT
19 for their meal periods. Additionally, DEFENDANT's failure to provide PLAINTIFF and the
20 Aggrieved Employees with legally required meal breaks prior to their fifth (5th) hour of work is
21 evidenced by DEFENDANT's business records. As a result, PLAINTIFF and other members of the
22 Aggrieved Employees forfeited meal breaks without additional compensation and in accordance
23 with DEFENDANT's strict corporate policy and practice.

24 22. Further, upon information and belief, DEFENDANT failed to provide PLAINTIFF and
25 Aggrieved Employees with a second off-duty meal period on workdays in which these employees
26 were required by DEFENDANT to work ten (10) hours of work from time to time. As a result,
27 DEFENDANT'S failure to provide PLAINTIFF and the Aggrieved Employees with legally required
28 meal breaks is evidenced by DEFENDANT's business records which contain no record of these

1 breaks.

2 23. In addition, DEFENDANT failed to compensate PLAINTIFF and Aggrieved Employees for
3 their rest periods as required by the applicable Wage Order and Labor Code. DEFENDANT did not
4 have a policy or practice which paid for off-duty rest periods to PLAINTIFF and the other Aggrieved
5 Employees. As a result, DEFENDANT's failure to provide PLAINTIFF and the Aggrieved
6 Employees with all the legally required paid rest periods is evidenced by DEFENDANT's business
7 records.

8 24. On information and belief, PLAINTIFF and other Aggrieved Employees were required to
9 work while not clocked in. DEFENDANT maintained a company-wide policy of refusing to pay
10 Aggrieved Employees, like PLAINTIFF, for all hours worked, even during training. Specifically,
11 DEFENDANT maintained a company-wide pattern and practice of altering employees' timecards
12 to eliminate numerous hours worked. As a result, DEFENDANT failed to compensate PLAINTIFF
13 and the Aggrieved Employees wages for all hours worked.

14 25. Under California law, every employer shall pay to each employee, on the established payday
15 for the period involved, not less than the applicable minimum wage for all hours worked in the
16 payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.
17 Hours worked is defined in the applicable Wage Order as "the time during which an employee is
18 subject to the control of an employer, and includes all the time the employee is suffered or permitted
19 to work, whether or not required to do so.

20 26. From time to time, when DEFENDANT did not accurately record PLAINTIFF'S and other
21 Aggrieved Employees' missed meal and rest breaks and/or also failed to pay the proper minimum
22 wages, the wage statements issued to PLAINTIFF and other Aggrieved Employees by
23 DEFENDANT violated California law, and in particular, Labor Code Section 226(a). Aside, from
24 the violations listed above in this paragraph, DEFENDANT failed to issue PLAINTIFF and
25 Aggrieved Employees an itemized wage statement that lists all the requirements under California
26 Labor Code 226 *et seq.*

27 27. DEFENDANT as a matter of corporate policy, practice and procedure, intentionally,
28 knowingly and systematically failed to reimburse and indemnify PLAINTIFF and the other

1 Aggrieved Employees for required business expenses incurred by the PLAINTIFF and other
2 Aggrieved Employees in direct consequence of discharging their duties on behalf of DEFENDANT.
3 Under California Labor Code Section 2802, employers are required to indemnify employees for all
4 expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
5 states that "an employer shall indemnify his or her employee for all necessary expenditures or losses
6 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
7 obedience to the directions of the employer, even though unlawful, unless the employee, at the time
8 of obeying the directions, believed them to be unlawful."

9 28. In violation of the applicable sections of the California Labor Code and the requirements of
10 the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of company
11 policy, practice and procedure, intentionally, knowingly and systematically failed to compensate
12 PLAINTIFF and the other Aggrieved Employees for missed meal and rest periods. This uniform
13 policy and practice of DEFENDANT is intended to purposefully avoid the payment for all time
14 worked as required by California law which allows DEFENDANT to illegally profit and gain an
15 unfair advantage over competitors who complied with the law. To the extent equitable tolling
16 operates to toll claims by the Aggrieved Employees against DEFENDANT, the PAGA PERIOD
17 should be adjusted accordingly.

18 29. As a result of DEFENDANT's intentional disregard of the obligation to meet this burden,
19 DEFENDANT failed to properly calculate and/or pay all required compensation for work performed
20 by the members of the CALIFORNIA CLASS and violated the California Labor Code and
21 regulations promulgated thereunder as herein alleged.

22 30. Specifically, as to PLAINTIFF, DEFENDANT failed to provide all the legally required off-
23 duty meal breaks to them and paid rest periods to them as required by the applicable Wage Order
24 and Labor Code. DEFENDANT failed to compensate PLAINTIFF for his missed meal and rest
25 breaks. The nature of the work performed by PLAINTIFF did not prevent them from being relieved
26 of all of their duties for the legally required off-duty meal periods. Further, DEFENDANT failed
27 to provide PLAINTIFF with a second off-duty meal period each workday in which PLAINTIFF was
28 required by DEFENDANT to work ten (10) hours of work. As a result, DEFENDANT'S failure to

1 provide PLAINTIFF with the legally required second off-duty meal period is evidenced by
2 DEFENDANT's business records. From time to time, and as a result of DEFENDANT not
3 accurately recording all missed meal and rest periods, and failing to pay minimum wages due for all
4 time worked, the wage statements issued to PLAINTIFF by DEFENDANT violated California law,
5 and in particular, Labor Code Section 226(a). To date, DEFENDANT has yet to pay PLAINTIFF
6 all of their wages due to them and all premiums due to them for missed meal and rest breaks and
7 DEFENDANT has failed to pay any penalty wages owed to them under California Labor Code
8 Section 203.

9 31. From time-to-time DEFENDANTS required PLAINTIFF, and AGGRIEVED
10 EMPLOYEES to perform pre-shift work, including but not limited to, cleaning a patient's home
11 and preparing food for the patient before clocking in to start their shift. Further, as discussed *supra*,
12 PLAINTIFF and AGGRIEVED EMPLOYEES were from time to time interrupted with work
13 assignments during their off-duty meal periods without additional compensation from
14 DEFENDANT.

15 32. DEFENDANTS directed and directly benefited from the uncompensated off-the-clock work
16 performed by PLAINTIFF and the AGGRIEVED EMPLOYEES.

17 33. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees
18 with an accurate itemized wage statement in writing showing, among other things, gross wages
19 earned and all applicable hourly rates in effect during the pay period and the corresponding amount
20 of time worked at each hourly rate. From time to time, DEFENDANT violated Cal. Lab. Code §
21 226 by failing to provide accurate wage statements. Additionally, DEFENDANT violated Cal. Lab.
22 Code § 226(a)(8) by failing to list the correct legal entity that employed PLAINTIFF. DEFENDANT
23 failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under
24 California Labor Code 226 *et seq.* As a result, DEFENDANT provided PLAINTIFF and the other
25 AGGRIEVED EMPLOYEES with wage statements which violate Cal. Lab. Code § 226 *et seq.*

26 34. Cal. Lab. Code § 204 provides that "[a]ll wages. . . earned by any person in any employment
27 are due and payable twice during each calendar month, on days designated in advance by the
28 employer as the regular paydays." Further, Cal. Lab. Code § 204(d) expressly requires employers

1 to pay employees all wages owed within seven (7) days of the close of the payroll period.
2 DEFENDANT from time to time failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES
3 all wages owed to them within seven (7) days of the close of the payroll period.

4 35. By reason of this uniform conduct applicable to PLAINTIFF and all AGGRIEVED
5 EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which fails to
6 accurately calculate and record the correct compensation for all time worked by PLAINTIFF and
7 other AGGRIEVED EMPLOYEES. The proper calculation of these employees' compensation is
8 the DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the obligation
9 to meet this burden, DEFENDANT fails to properly calculate and/or pay all required compensation
10 for work performed by the AGGRIEVED EMPLOYEES and violated the California Labor Code
11 and regulations promulgated thereunder as herein alleged.

12 36. All of the conduct and violations alleged herein occurred during the PAGA PERIOD.
13 To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during
14 the PAGA PERIOD, PLAINTIFF seek penalties for those violations that affected other
15 AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018 AJDAR 12157
16 (Certified for Publication 12/19/18).

17 **FIRST CAUSE OF ACTION**

18 **For Violation of the Private Attorneys General Act**

19 **[Cal. Lab . Code §§ 2698 ET SEQ. ("PAGA")]**

20 **(By PLAINTIFF and Against All DEFENDANTS)**

21 37. PLAINTIFF hereby re-alleges and incorporates by reference the previous paragraphs
22 as though fully set forth herein, the prior paragraphs of this Complaint.

23 38. PAGA is a mechanism by which the State of California itself can enforce state labor
24 laws through the employee suing under the PAGA who do so as the proxy or agent of the state's
25 labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally
26 a law enforcement action designed to protect the public and not to benefit private parties. The
27 purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing"
28 citizens as private attorney generals to enforce the Labor Code. In enacting PAGA, the California

1 Legislature specified that “it was ... in the public interest to allow aggrieved employees, acting as
2 private attorneys general to recover civil penalties for Labor Code violations...”Stats. 2003, ch. 906,
3 § 1. Accordingly, PAGA claims cannot be subject to arbitration.

4 39. PLAINTIFF, and such persons that may be added from time to time who satisfy the
5 requirements and exhaust the administrative procedures under the Private Attorney General Act,
6 bring this Representative Action on behalf of the State of California with respect to themselves and
7 all individuals who are or previously were employed by DEFENDANTS in California during the
8 time period of November 2023 until the present (the "AGGRIEVED EMPLOYEES").

9 40. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for
10 a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
11 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies, or employees for
12 violation of the Labor Code may, as an alternative, be recovered through civil action brought by an
13 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
14 to the procedures specified in Labor Code § 2699.3.

15 41. For all provisions of the Labor Code except those for which a civil penalty is
16 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
17 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred
18 dollars (\$200) for each aggrieved employee per pay period for each subsequent pay period in which
19 Defendants violated these provisions of the Labor Code.

20 42. Defendant’s conduct violates numerous Wage Orders and Labor Code sections
21 including, but not limited to, the following:

22 a. Violation of Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226,
23 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199,
24 2802, 2804 and 2698 for failure to timely pay all earned wages (including minimum wage and
25 overtime wages) owed to Plaintiff and other aggrieved employees during his employment and upon
26 separation of employment as herein alleged;

1 b. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to
2 Plaintiff and other aggrieved employees failure to pay premium wages for missed meal periods and
3 herein alleged;

4 c. Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other
5 aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;

6 d. Violation of Labor Code § 226 for failure to provide accurate itemized wage
7 statements to Plaintiff and other aggrieved employees as herein alleged;

8 e. Violation of Labor Code § 1174 and 1174.5 for failure to maintain accurate and
9 complete records showing, among other things, the hours worked daily and the wages paid to
10 aggrieved employees; and

11 f. Violation of Labor Code § 2800 and 2802 for failure to reimburse Plaintiffs and other
12 aggrieved employees as herein alleged.

13 43. Each Plaintiff is an "AGGRIEVED EMPLOYEE" because they were employed by
14 the alleged violator and had one or more of the violations committed against them, and therefore are
15 properly suited to represent the interest of all the other AGGRIEVED EMPLOYEES.

16 44. On November __, 2024, PLAINTIFF ABIUD IVAN PEREZ gave written notice
17 by electronic submission to the Labor and Workforce Development Agency (the "Agency") and
18 by certified mail to the employer of the specific provisions of this code alleged to have been
19 violated as required by Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated
20 by this reference herein. The statutory waiting period for PLAINTIFF PEREZ to add these
21 allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may
22 now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of
23 the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

24 45. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover
25 civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

26 46. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred
27 herein.

28 **PRAYER FOR RELIEF**

1 WHEREFORE, PLAINTIFF, prays for judgment against each DEFENDANT, jointly and
2 severally, as follows:

- 3 1. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- 4 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
5 General Act of 2004;
- 6 b. An Award of penalties, attorneys' fees and costs of suit, as allowable under the law,
7 including, but not limited to, pursuant to Labor Code § 226, §1194 and §2699(g);
8 and
- 9 c. For such other relief as the Court deems just and proper.

10
11 Dated: November __, 2024

12 **BARVIÉ LAW, APC**

13
14 By _____

15 **NICOLE BARVIÉ, Esq.**
16 Attorneys for Plaintiff(s)

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