

Kevin Mahoney (SBN: 235367)

kmahoney@mahoney-law.net

Joshua D. Klein (SBN: 322099)

jklein@mahoney-law.net

MAHONEY LAW GROUP, APC

249 E. Ocean Boulevard, Suite 814

Long Beach, California 90802

Telephone: (562) 590-5550

Facsimile: (562) 590-8400

Attorneys for Plaintiff CHEBELLA LAPPLANDER, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of herself and other current and former employees,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

LOS ANGELES COUNTY – CENTRAL DISTRICT

CHEBELLA LAPPLANDER,

Plaintiff,

v.

CLUB DEMONSTRATION SERVICES,
INC.; and DOES 1 through 50, inclusive,

Defendants.

Case No.: **20STCV15261**

**REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL PENALTIES**

1. Violation of PAGA for Failure to Pay All Wages Including Minimum Wages and Overtime Wages (Lab. Code, § 510, 1194);
2. Violation of PAGA for Failure to Provide Rest Periods (Lab. Code, § 226.7, 512);
3. Violation of PAGA for Failure to Provide Meal Periods (Lab. Code, § 226.7, 512);
4. Violation of PAGA for Waiting Time Penalties (Lab. Code, § 201, 202, 203);
5. Violation of PAGA for Failure to Keep Accurate Payroll Records (Lab. Code, §§ 1174, 226, subds. (a), (e)); and
6. Violation of PAGA for Failure to Reimburse for Necessary Expenditures (Lab. Code, § 2802.)

1 Plaintiff CHEBELLA LAPPLANDER (“Plaintiff” or “Ms. Lapplander”), as a
2 representative of the State of California and the Labor and Workforce Development Agency
3 (“LWDA”), and on behalf of herself and other current and former employees, complains and
4 alleges as follows:

5 **INTRODUCTION**

6 1. This case arises out of the violation of numerous Labor Code provisions by
7 Defendant CLUB DEMONSTRATION SERVICES, INC., a California corporation,
8 (“Defendant” or “CDS”), and DOES 1-50, inclusive. Plaintiff and similarly-aggrieved employees
9 seek civil penalties pursuant to the Private Attorneys General Act (“PAGA”) for these violations.

10 2. Plaintiff brings this lawsuit seeking civil penalties on behalf of the State for
11 Defendant’s violations of the Labor Code, including, but not limited to, sections 201, 202, 203,
12 204, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802. Plaintiff also seeks to recover, among
13 other things, interest, penalties, attorneys’ fees, and costs pursuant to Labor Code.

14 **JURISDICTION AND VENUE**

15 3. Venue is proper in this judicial district and the County of Los Angeles, pursuant
16 to Code of Civil Procedure section 395, because the Defendant maintains its office location and
17 transacts business in this county, the obligations and liability arise in this county, and/or work
18 was performed by Plaintiff and other aggrieved employees made the subject of this action in the
19 County of Los Angeles.

20 4. Defendant employed Plaintiff and similarly-aggrieved employees within the State
21 of California and the unlawful acts alleged herein have a direct effect on Plaintiff and similarly-
22 aggrieved employees.

23 5. The California Superior Court has jurisdiction in the matter because the individual
24 claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional threshold
25 and the five million dollar (\$5,000,000.00) aggregate jurisdictional threshold for federal court
26 and, upon information and belief, Plaintiff and Defendant are residents of and/or domiciled in the
27 State of California. Further, there is no federal question at issue as the issues herein is based solely
28 on California Statutes and law including the Labor Code, Industrial Welfare Commission Wage

1 Orders, Code of Civil Procedure, and Rules of Court. Thus, the above entitled court maintains
2 appropriate jurisdiction to hear this matter.

3 **ADMINISTRATIVE PREREQUISITE**

4 6. By this complaint, Plaintiff brings this case as a representative action seeking
5 penalties for the State of California in a representative capacity, as provided by the Private
6 Attorneys General Act ("PAGA"), Labor Code sections 2698 et seq., to the extent permitted by
7 law, as an aggrieved employee who was employed by Defendant and subject to alleged violations
8 set forth in Labor Code section 2699.5.

9 7. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
10 of action under PAGA only after giving notice to the Labor Workforce Development Agency
11 ("LWDA") and the employer of the Labor Code sections alleged to have been violated, and
12 after receiving notice from the LWDA of its intention not to investigate, or after sixty-five (65)
13 days have passed without notice.

14 8. On February 5, 2020, Plaintiff gave written notice by electronically filing the
15 notice with the Labor Workforce Development Agency ("LWDA") (LWDA Case No. LWDA-
16 CM-770749-20), and by certified mail to Defendant of the specified provisions alleged to have
17 been violated, including the facts and theories to support the alleged violations as required by
18 Labor Code section 2699.3. A true and correct copy of Plaintiff's letter sent to the LWDA and
19 Defendant, dated February 5, 2020, is attached hereto as Exhibit A.

20 9. Plaintiff specifically alleged the following in her notice to the Labor Workforce
21 Development Agency ("LWDA") and the employer: violation of Labor Code sections 201, 202,
22 203, 204, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802.

23 10. More than sixty-five (65) days have passed for the LWDA to provide notice of
24 its intent to investigate Plaintiff's claims, and the LWDA has not provided notice of its intention
25 to investigate Plaintiff's claims.

26 11. Plaintiff alleges that all administrative prerequisites to this filing of this action
27 have been fulfilled.

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THE PARTIES

Plaintiff

12. Plaintiff was employed by Defendant from on or around early 2003, through February 27, 2019. At all relevant times herein, Plaintiff was employed by Defendant in a non-exempt hourly position, and was entitled to compensation for all hours worked, including but not limited to overtime compensation as well as penalties from Defendant.

Defendant

13. Plaintiff is informed and believes, and based thereon alleges, that Defendant CDS is a California corporation which provides marketing services to Costco Wholesale Corporation ("Costco.") On information and belief, and based thereon, Plaintiff alleges that Defendant is conducting business in good standing in California, and at all times herein mentioned has regularly conducted business throughout the State of California.

14. On information and belief, CDS is, and was, the employer for Plaintiff and other aggrieved employees.

15. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50, inclusive, but on information and belief alleges that said Defendants are legally responsible for the payment of wages, and the payment of rest and meal period compensation, to Plaintiff and other aggrieved employees by virtue of their unlawful practices, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendants when ascertained.

16. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and other aggrieved employees.

17. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,

managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

18. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants sued herein was, at all relevant times, the employer, owner, shareholder, principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent and knowledge, approval and/or ratification of the other Defendants. The above co-Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, approved, authorized, and/or ratified the unlawful acts described herein.

GENERAL ALLEGATIONS

19. Plaintiff and other aggrieved employees are, and at all times relevant herein have been, non-exempt employees within the meaning of the Labor Code and the implementing rules and regulations of IWC Wage Orders.

20. Plaintiff is informed and believes, and based thereon alleges, that Defendant's policies and practices described herein are common across each of CDS's job sites within the state.

21. Ms. Lapplander alleges that she and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their shifts. Ms. Lapplander and other aggrieved employees allege that they did not receive at least one (1) duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the eleventh (11th) hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.) In fact, at times Defendant did not have sufficient employees to provide relief for meal periods and thereby required Ms. Lapplander and other aggrieved employees to continue working throughout all their

1 meal periods. When employees were prevented from taking timely and complete meal periods,
2 they did not receive premium pay as compensation for the missed meal period.

3 22. Ms. Lapplander further alleges that she and other aggrieved employees did not
4 receive at least one (1) duty-free, uninterrupted rest period for every four (4) hours worked, or
5 major fraction thereof, as required by the Labor Code. Ms. Lapplander and other aggrieved
6 employees were generally precluded from taking rest periods due to Defendant's failure to
7 sufficiently staff shifts to provide relief and thereby allow Ms. Lapplander and other aggrieved
8 employees the opportunity to take rest breaks. In order to make it appear as though Ms.
9 Lapplander and other aggrieved employees were actually taking compliant rest breaks, Defendant
10 would often require Ms. Lapplander and other aggrieved employees to wait around after the
11 conclusion of their shift to take a "deferred" rest period. When employees were prevented from
12 taking rest breaks, they did not receive premium pay for the missed rest break.

13 23. Defendant failed to pay Ms. Lapplander and other aggrieved employees at the
14 legally mandated wage rates for all hours worked in violation of California law. Ms. Lapplander
15 and other aggrieved employees allege that Defendant often rounded the hours worked by Ms.
16 Lapplander and other aggrieved employees to the nearest quarter hour worked. Ms. Lapplander
17 alleges that on average, this rounding favored Defendant and therefore resulted in lost wages to
18 Ms. Lapplander and other aggrieved employees.

19 24. Ms. Lapplander further alleges that Defendant frequently held mandatory
20 meetings. Defendant required all employees to clock out for these meetings. Following the
21 meetings, all employees were required to clock back in. Due to the volume of employees attending
22 each meeting, the clock-out process alone took approximately fifteen (15) minutes. Ms.
23 Lapplander and other aggrieved employees were neither compensated for their time spent
24 attending Defendant's mandatory meetings, nor the time spent waiting to clock back in.

25 25. Ms. Lapplander further alleges that Defendant frequently required Ms. Lapplander
26 and other aggrieved employees to travel between different Costco locations using their personal
27 vehicles, but did not compensate them for the time spent doing so.

28 26. Due to any or all of the above violations, Defendant failed to provide compensation

1 at least at a minimum wage rate for all hours worked as required by the Labor Code. Defendant's
2 failure to provide Ms. Lapplander and other aggrieved employees pay for all hours worked is a
3 violation of California's minimum wage laws, as Ms. Lapplander and other aggrieved employees
4 should have been provided at least the applicable minimum wage for all hours worked.

5 27. Further, to the extent that Ms. Lapplander and other aggrieved employees worked
6 shifts of at least eight (8) hours per day, or forty (40) hours per week, all unpaid wages described
7 above in excess of the hours specified herein were required to be compensated at a rate of at least
8 one-and-a-half times each employee's base rate of pay. To the extent such hours exceeded twelve
9 (12) in one day or eight (8) on the seventh consecutive day worked, such hours were required to
10 be compensated at a rate of at least two times each employee's base rate of pay. Defendant's
11 failure to provide Ms. Lapplander and other aggrieved employees *any* pay whatsoever for off-
12 the-clock hours worked therefore necessarily resulted in overtime violations and minimum wage
13 violations as well.

14 28. Ms. Lapplander alleges that she and other aggrieved employees were provided
15 uniforms bearing Defendant's logo; however, Ms. Lapplander and other aggrieved employees
16 were required to wash and otherwise maintain uniforms at each employee's own expense. Ms.
17 Lapplander and other aggrieved employees did not receive reimbursement for these costs from
18 Defendant.

19 29. Ms. Lapplander further alleges that she and other aggrieved employees were
20 required to travel between different Costco locations using their personal vehicles; however,
21 Defendant failed to provide full reimbursement for the cost of doing so.

22 30. By failing to include on Ms. Lapplander's and other aggrieved employees' pay
23 stubs all rest and meal break premium wages, reimbursement for all necessary business
24 expenditures, and full compensation for all hours worked, Defendant failed to keep accurate
25 payroll records and failed to provide Ms. Lapplander and other aggrieved employees with
26 complete and accurate wage statements.

27 31. As a further result of Defendant's failure to pay all wages owed as described
28 herein, Defendant also violated Labor Code sections 201, 202, 203, and 204, and Wage Order 5,

1 due to its uniform policy, practice, and procedure of failing to pay all wages earned to former
2 employees at the time their employment ended.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
5 **PAY ALL WAGES INCLUDING MINIMUM WAGE AND OVERTIME WAGES**

6 **(Lab. Code, § 1194)**

7 **(Against All Defendants)**

8 32. Plaintiff incorporates all previous paragraphs of this complaint as though fully set
9 forth herein.

10 33. As a result of Defendant's unlawful acts as described above, Plaintiff and other
11 aggrieved employees have been deprived of regular wages, overtime, and/or double time
12 compensation in amounts to be determined at trial, and are entitled to recovery of civil penalties,
13 attorneys' fees, and costs, pursuant to Labor Code sections 1194 and 1199.

14 34. Defendant willfully violated the Labor Code with respect to meeting the
15 requirements of paying all wages earned, including regular wages, overtime, and double-time, as
16 alleged herein.

17 35. Plaintiff and similarly-aggrieved employees request recovery of civil penalties
18 pursuant to Labor Code section 226.7, in a sum as provided by the Labor Code and/or any other
19 statute.

20 36. Additionally, Plaintiff and similarly-aggrieved employees are entitled to attorneys'
21 fees, costs, pursuant to Labor Code section 1194 and prejudgment interest.

22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
24 **PROVIDE REST PERIODS**

25 **(Lab. Code, § 226.7 and 512)**

26 **(Against All Defendants)**

27 37. Plaintiff incorporates all previous paragraphs of this complaint as though fully set
28 forth herein.

1 38. Labor Code section 226.7 provides that employers authorize and permit all
2 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

3 39. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
4 provide and employee rest periods in accordance with this section, the employer shall pay the
5 employee one (1) hour of pay at the employees' regular rate of compensation for each workday
6 that the rest period is not provided.

7 40. Plaintiff and other aggrieved employees were not provided timely, lawful duty-
8 free rest periods for every four hours of their shift or major fraction thereof.

9 41. At all times relevant hereto, Plaintiff and other aggrieved employees worked more
10 than four (4) hours in a workday.

11 42. Plaintiff and other aggrieved employees did not voluntarily or willfully waive rest
12 periods.

13 43. Defendant further failed to implement a policy to pay Plaintiff and other aggrieved
14 employees an additional hour of pay at their regular rate of pay for rest periods not authorized or
15 permitted.

16 44. By failing to keep adequate records as required by sections 226 and 1174,
17 subdivision (d), of the Labor Code, Defendant has injured Plaintiff and other aggrieved
18 employees, and made it difficult to calculate the unpaid rest period compensation (including,
19 wages, interest, and penalties thereon) due and owing to Plaintiff and other aggrieved employees.

20 45. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff
21 and other aggrieved employees, they have been deprived of compliant rest periods and/or
22 premium wages in lieu thereof.

23 46. Plaintiff and similarly-aggrieved employees request recovery of civil penalties
24 pursuant to Labor Code section 226.7, in a sum as provided by the Labor Code and/or any other
25 statute.

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**VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO
PROVIDE MEAL PERIODS
(Lab. Code, § 226.7 and 512)
(Against All Defendants)**

48. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30) minutes.

50. Defendant maintains, and has maintained throughout the relevant time period, a policy and practice of failing to provide timely, uninterrupted, and fully-compliant meal periods to Plaintiff and other aggrieved employees. Defendant failed to provide Plaintiff and other aggrieved employees with compensation for their missed meal periods.

52. By virtue of the Defendant's failure to schedule Plaintiff and similarly-aggrieved employees in such a way as to provide a meal period, and/or work free meal period to Plaintiff and similarly-aggrieved employees thereby causing Plaintiff and similarly-aggrieved employees to suffer, and continue to suffer, damages in amounts which are presently unknown, but will be ascertained according to proof at trial.

REPRESENTATIVE ACTION COMPLAINT FOR CIVIL PENALTIES

1 this complaint, in a sum as provided by the Labor Code and/or other statutes.

2 **FOURTH CAUSE OF ACTION**

3 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
4 **PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES**

5 **(Lab. Code, § 201, 202, 203)**

6 **(Against All Defendants)**

7 54. Plaintiff incorporates all previous paragraphs of this complaint as though fully set
8 forth herein.

9 55. During the relevant time period, Plaintiff and formerly employed members of the
10 other aggrieved employees resigned or were terminated from their positions with Defendant.
11 Defendant, however, willfully did not pay Plaintiff and other aggrieved employees all wages
12 which were due them upon their separation of employment immediately upon termination or
13 within seventy-two (72) hours of their resignation as required by Labor Code section 202,
14 subdivision (a.) Defendant failed to pay Plaintiff and other aggrieved employees all minimum
15 wages and/or overtime wages due which were earned throughout their employment. Defendant
16 also failed to pay premium wages for times Plaintiff and similarly-aggrieved employees were not
17 provided meal and/or rest breaks.

18 56. Plaintiff seeks the payment of civil penalties pursuant to Labor Code section 203,
19 according to proof.

20 57. Plaintiff also seeks attorneys' fees, costs, and prejudgment interest pursuant to
21 Labor Code section 203.

22 **FIFTH CAUSE OF ACTION**

23 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
24 **KEEP ACCURATE PAYROLL RECORDS**

25 **(Lab. Code, § 1174, 226, subds. (a), (e))**

26 **(Against All Defendants)**

27 58. Plaintiff incorporates by reference and realleges all previous paragraphs of this
28 complaint as though fully set forth herein.

1 59. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
2 location in California or at the plant or establishment at which the employee is employed, payroll
3 records showing the hours worked daily, and the wages paid to, each employee. Labor Code
4 section 226, subdivision (a), requires an employer to provide employees—either as a detachable
5 part of the check, draft, or voucher paying the employee’s wages, or separately when wages are
6 paid by personal check or cash—an accurate itemized wage statement in writing.

7 60. Plaintiff is informed and believes, and based thereon alleges, that Defendant’s
8 failure to keep accurate payroll records, as described above, violated Labor Code section 1174,
9 subdivision (d), and the applicable wage order. Plaintiff and similarly-aggrieved employees are
10 entitled to penalties of one hundred dollars (\$100.00) for the initial violation and two hundred
11 dollars (\$200.00) for each subsequent violation for every pay period during which these records
12 and information were not kept by Defendant.

13 61. Plaintiff is informed and believes, and based thereon alleges, that Defendant’s
14 failure to keep and maintain accurate records and information, as described above, was willful,
15 and Plaintiff and similarly-aggrieved employees are entitled to a civil penalty of five hundred
16 dollars (\$500.00) per employee pursuant to Labor Code section 1174.5.

17 62. Defendant knowingly and intentionally failed to, and continues to fail to, furnish
18 Plaintiff and similarly-aggrieved employees with timely, itemized statements that accurately
19 reflect the total number of hours worked, as required by Labor Code section 226, subdivision (2),
20 and Plaintiff and similarly-aggrieved employees suffered injury as a result. Consequently,
21 Defendant is liable to Plaintiff and similarly-aggrieved employees for the amounts provided by
22 Labor Code section 226, subdivision (e.)

23 63. Plaintiff has complied with the reporting requirements under Labor Code sections
24 2698-2699, individually, and on behalf of all aggrieved employees. Plaintiff requests and is
25 entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest,
26 attorney’s fees, and costs pursuant to Labor Code section 1174, as well as all statutory penalties
27 and attorneys’ fees against Defendant.

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1 **SIXTH CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
3 **REIMBURSE FOR NECESSARY EXPENDITURES**

4 **(Lab. Code, § 2802)**

5 **(Against All Defendants)**

6 64. Plaintiff realleges and incorporates by reference all preceding paragraphs of this
7 complaint as though fully set forth herein.

8 65. Under Labor Code section 2802, subdivision (a), an employer is legally to
9 reimburse its employees for necessary business expenditures incurred as a result of performing
10 their work.

11 66. Labor Code section 2802 states, "An employer shall indemnify his or his employee
12 for all necessary expenditures or losses incurred by the employee in direct consequence of the
13 discharge of his or his duties..."

14 67. Defendant failed to reimburse Plaintiff and other aggrieved employees for
15 necessary business expenditures; specifically, the cost of using personal vehicles for business
16 purposes, and the maintenance of uniforms bearing Defendant's logo.

17 68. Defendant knowingly, willingly and intentionally attempted to offset the cost of
18 doing business on the Plaintiff and other aggrieved employees.

19 69. Defendants had a practice and policy of requiring Plaintiff and the other aggrieved
20 employees to shoulder the burden of Defendant's cost of doing business by failing to reimburse
21 Plaintiff and the other aggrieved employees for necessary business expenditures.

22 70. Accordingly, Plaintiff and similarly-aggrieved employees are entitled to an award
23 of "necessary expenditures or losses" and civil penalties in accordance with Labor Code section
24 2802, which shall also include all reasonable costs, including, but not limited to, attorneys' fees
25 and interest.

26 **PRAYER FOR RELIEF**

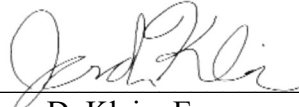
27 **WHEREFORE**, Plaintiff prays for the following relief:

- 28 1. For penalties in an amount according to proof;

2. For reasonable attorney's fees and costs, pursuant to the PAGA; and
3. For such other and further relief as this Court may deem just and proper.

Dated: April 7, 2020

MAHONEY LAW GROUP, APC



Joshua D. Klein, Esq.
Attorney for Plaintiff CHEBELLA LAPPLANDER
and on behalf of herself and other current and
former employees

Exhibit A



Joshua D. Klein, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
jklein@mahoney-law.net

February 5, 2020

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

Via U.S. Mail & Certified Mail

Certified Mail No.: 7019 2280 0002 0214 1575

Return Receipt Requested

Club Demonstration Services, Inc.
c/o Mustafa El-Farra
9520 Towne Centre Dr., Suite 120
San Diego, CA 92121

Re: *Chebella Lapplander v. Club Demonstration Services, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION §§ 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; Club Demonstration Services, Inc.
From: Chebella Lapplander, on behalf of herself and similarly-aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Ms. Chebella Lapplander ("Ms. Lapplander" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA"), on behalf of herself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Club Demonstration Services, Inc. ("CDS" or "Employer") is a California corporation which provides marketing services to Costco Wholesale Corporation ("Costco"). Ms. Lapplander was employed by Employer as a non-exempt employee from early 2003 through approximately February 27, 2019.

Ms. Lapplander alleges Employer violated various sections of the Labor Code, including

sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, as well as various provisions of Wage Order 5, by failing to provide Ms. Lapplander and all other aggrieved employees with meal and rest periods and premium pay, failing to pay all wages owed, including minimum wage and overtime, failing to reimburse all necessary business expenditures, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Ms. Lapplander and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the date of this letter.

A. CDS Failed to Provide Ms. Lapplander and Other Aggrieved Employees with Meal and Rest Periods, or Premium Compensation in Lieu Thereof, in Violation of California Law

Ms. Lapplander alleges that she and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their shifts. Ms. Lapplander and other aggrieved employees allege that they did not receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.) In fact, at times Employer did not have sufficient employees to provide relief for meal periods and thereby required Ms. Lapplander and other aggrieved employees to continue working throughout all their meal periods. When employees were prevented from taking timely and complete meal periods, they did not receive premium pay as compensation for the missed meal period.

Ms. Lapplander further alleges that she and other aggrieved employees did not receive at least one duty-free, uninterrupted rest period for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. Ms. Lapplander and other aggrieved employees were generally precluded from taking rest periods due to Employer's failure to sufficiently staff shifts to provide relief and thereby allow Ms. Lapplander and other aggrieved employees the opportunity to take rest breaks. In order to make it appear as though Ms. Lapplander and other aggrieved employees were actually taking compliant rest breaks, Employer would often require Ms. Lapplander and other aggrieved employees to wait around after the conclusion of their shift to take a "deferred" rest period. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512, and Wage Order 5.

B. CDS Failed to Pay Ms. Lapplander and Other Aggrieved Employees for all Hours Worked, Including Minimum Wage and Overtime, in Violation of California Law

Employer failed to pay Ms. Lapplander and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. Ms. Lapplander and other aggrieved employees allege that Employer often rounded the hours worked by Ms. Lapplander and other aggrieved employees to the nearest quarter hour worked. Ms. Lapplander alleges that on

average, this rounding favored Employer and therefore resulted in lost wages to Ms. Lapplander and other aggrieved employees.

Ms. Lapplander further alleges that Employer frequently held mandatory meetings. Employer required all employees to clock out for these meetings. Following the meetings, all employees were required to clock back in. Due to the volume of employees attending each meeting, the clock-out process alone took approximately 15 minutes. Ms. Lapplander and other aggrieved employees were neither compensated for their time spent attending Employer's mandatory meetings, nor the time spent waiting to clock back in.

Ms. Lapplander further alleges that Employer frequently required Ms. Lapplander and other aggrieved employees to travel between different Costco locations using their personal vehicles, but did not compensate them for the time spent doing so.

Due to any or all of the above violations, Employer failed to provide compensation at least at a minimum wage rate for all hours worked as required by the Labor Code. Employer's failure to provide Ms. Lapplander and other aggrieved employees pay for all hours worked is a violation of California's minimum wage laws, as Ms. Lapplander and other aggrieved employees should have been provided at least the applicable minimum wage for all hours worked.

Further, to the extent that Ms. Lapplander and other aggrieved employees worked shifts of at least eight (8) hours per day, or forty (40) hours per week, all unpaid wages described above in excess of the hours specified herein were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. To the extent such hours exceeded twelve (12) in one day or eight (8) on the seventh consecutive day worked, such hours were required to be compensated at a rate of at least two times each employee's base rate of pay. Employer's failure to provide Ms. Lapplander and other aggrieved employees *any* pay whatsoever for off-the-clock hours worked therefore necessarily resulted in overtime violations and minimum wage violations as well.

Employer's failure conduct is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194, and Wage Order 5.

C. CDS Failed to Reimburse Ms. Lapplander and Other Aggrieved Employees for All Necessary Business Expenditures in Violation of California Law

Ms. Lapplander alleges that she and other aggrieved employees were provided uniforms bearing Employer's logo; however, Ms. Lapplander and other aggrieved employees were required to wash and otherwise maintain uniforms at each employee's own expense. Ms. Lapplander and other aggrieved employees did not receive reimbursement for these costs from Employer.

Ms. Lapplander further alleges that she and other aggrieved employees were required to travel between different Costco locations using their personal vehicles; however, Employer failed to provide full reimbursement for the cost of doing so.

Employer's failure to provide complete compensation for all necessary business expenditures incurred by Ms. Lapplander and other aggrieved employees in direct consequence of their duties to Employer is actionable under PAGA as a violation of Labor Code section 2802, and Wage Order 5.

D. CDS Failed to Provide Ms. Lapplander and Other Aggrieved Employees with Compliant Wage Statements, and Failed to Timely Pay All Wages Owed Upon Severance of Employment, in Violation of California Law

By failing to include on Ms. Lapplander's and other aggrieved employees' pay stubs all rest and meal break premium wages, reimbursement for all necessary business expenditures, and full compensation for all hours worked, Employer failed to keep accurate payroll records and failed to provide Ms. Lapplander and other aggrieved employees with complete and accurate wage statements. This conduct is in violation of Labor Code sections 226 and 1174, and Wage Order 5, and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, 203, and 204, and Wage Order 5, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended.

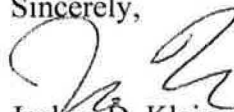
E. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Lapplander becomes aware of additional compensation owed or losses incurred by Ms. Lapplander or by any other aggrieved employee of the Employer, Ms. Lapplander expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

Mahoney Law Group, APC
Joshua D. Klein
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Tel: (562) 590-5550
jklein@mahoney-law.net

Sincerely,



Joshua D. Klein, Esq.

MAHONEY LAW GROUP, APC