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Assigned for all Purposes
Judge Kirk Nakamura

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CX-103

Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MATTHEW CUOZZO, as an individual
and on behalf of all others similarly situated,

Plaintiffs,

vs.

AMAZON RETAIL LLC, a Delaware
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 30-2021-01211337-CU-OE-CXC

**REPRESENTATIVE ACTION COMPLAINT
FOR VIOLATION OF LABOR CODE §
2698, ET SEQ**

DEMAND OVER \$25,000.00

1 Plaintiff Matthew Cuzzo (“Plaintiff”) hereby submits this Representative Complaint
2 (“Complaint”) against Defendant Amazon Retail LLC and Does 1 through 50 (hereinafter
3 collectively referred to as “Defendants”) on behalf of himself and other aggrieved employees of
4 Defendants, for penalties pursuant to the Private Attorneys General Act (“PAGA”) for
5 Defendant’s violations of the California Labor Code, as follows:

6 **INTRODUCTION**

7 1. This class action is within the Court’s jurisdiction under California Labor Code
8 § 226, 2698, et seq., and the applicable Wage Orders of the California Industrial Welfare
9 Commission (“IWC”).

10 2. This complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide complete and accurate wage
15 statements to Plaintiff and Class Members.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 have engaged in, among other things a system of willful violations of the California Labor Code
18 and the applicable IWC Wage Orders by creating and maintaining policies, practices, and
19 customs that knowingly deny its employees the above stated rights and benefits.

20 **JURISDICTION AND VENUE**

21 5. The Court has jurisdiction over the violations of the California Labor Code § 226
22 and 2698, et seq.

23 6. Venue is proper because Defendants do business in Orange County, and Plaintiff
24 worked for Defendants in Orange County.

25 **PARTIES**

26 7. Plaintiff began working for Defendants as a non-exempt employee in about
27 October 2020. Plaintiff is employed as an Outbound Operations Zone Lead.

28 8. Plaintiff was and is the victim of the policies, practices, and customs of

1 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
2 by California Labor Code § 226 and 2698, et seq.

3 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
4 Amazon Retail LLC was and is a Delaware limited liability company doing business in the State
5 of California and is engaged in retail sales.

6 10. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned Does 1 through 50, are and were corporations, business entities, individuals, and
8 partnerships, licensed to do business and actually doing business in the State of California. As
9 such, and based upon all the facts and circumstances incident to Defendants' business,
10 Defendants are subject to California Labor Code § 226 and 2698, et seq.

11 11. Plaintiff does not know the true names or capacities, whether individual, partner
12 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
13 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
14 complaint when the true names and capacities are known. Plaintiff is informed and believes and
15 based thereon alleges that each of said fictitious defendants were responsible in some way for the
16 matters alleged herein and proximately caused Plaintiff and members of the general public and
17 class to be subject to the illegal employment practices, wrongs, and injuries complained of
18 herein.

19 12. At all times herein mentioned, each of said defendants participated in the doing of
20 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
21 Defendants, and each of them, were the agents, servants and employees of each of the other
22 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
23 acting within the course and scope of said agency and employment.

24 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
25 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
26 joint venturer of, or working in concert with each of the other co-Defendants and was acting
27 within the course and scope of such agency, employment, joint venture, or concerted activity.
28 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of

1 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
2 Defendants.

3 14. At all times herein mentioned, Defendants, and each of them, were members of,
4 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
5 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

6 15. At all times herein mentioned, the acts and omissions of various Defendants, and
7 each of them, concurred and contributed to the various acts and omissions of each and all of the
8 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
9 herein mentioned, Defendants, and each of them, ratified each and every act or omission
10 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
11 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
12 damages as herein alleged.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF LABOR CODE § 2698 ET SEQ.**

15 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL**
16 **DEFENDANTS)**

17 16. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
18 though fully set forth herein.

19 17. Plaintiff brings this cause of action for violation of PAGA as a proxy for the State
20 of California and in this capacity, will seek penalties on behalf of all Aggrieved Employees from
21 May 13, 2020, through the present, for Defendants' violations of Labor Code § 226(a) arising
22 from Defendants' failure to identify the applicable rate of pay and hours use to calculate "Retro
23 Shift Pay" wages.

24 18. On or about May 13, 2021, Plaintiff sent written notice to the California Labor &
25 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code § 226(a),
26 pursuant to PAGA. As of the date of the filing of this Complaint, the LWDA has yet to provide
27 notice to Plaintiff as to whether it intends to investigate the violations provided for in the written
28 notice. In addition to the LWDA, Plaintiff also sent his written notice to Defendants via certified

mail according to Labor Code § 2699.3.

19. As such, pursuant to Labor Code § 2699(a), Plaintiff will seek recovery of any and all applicable civil penalties for Defendants' violation of Labor Code § 226(a), for the time period described above, on behalf of himself and other Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. Upon the First Cause of Action, for penalties pursuant to California Labor Code § 2698 et seq., 226.3, and for costs and attorneys' fees;
2. On all causes of action for attorneys' fees and costs as provided by California Labor Code § 2699 and Code of Civil Procedure § 1021.5; and
3. For such other and further relief that the Court may deem just and proper.

DATED: July 19, 2021

DIVERSITY LAW GROUP, P.C.

By: 

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Max W. Gavron

Attorneys for Plaintiff and the Class