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Attorneys for Plaintiff
ESPERANZA WOOLEVER

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento
08/23/2024
By: L. Stewart Deputy

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

ESPERANZA WOOLEVER, in her individual and
representative capacity,

Plaintiff,

vs.

2020 COMPANIES, INC., a Delaware
corporation; and DOES 1-10, Inclusive,

Defendants.

Case No. **24CV016764**

COMPLAINT FOR:

- (1) FAILURE TO PAY OVERTIME**
- (2) FAILURE TO PAY MINIMUM WAGES**
- (3) FAILURE TO PROVIDE PROPER MEAL PERIODS**
- (4) FAILURE TO PROVIDE PROPER REST PERIODS**
- (5) FAILURE TO PROVIDE PROPER WAGE STATEMENTS**
- (6) FAILURE TO REIMBURSE WORK-RELATED EXPENSES**
- (7) UNFAIR COMPETITION**
- (8) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

JURY TRIAL DEMANDED

1 Plaintiff ESPERANZA WOOLEVER (“Plaintiff”) is informed and believes and hereby alleges
2 as follows:

3 **FACTUAL BACKGROUND**

4 1. Plaintiff started working for 2020 Companies (“2020 Companies”) on or about
5 September 8, 2022 as Regional Sales Manager for which she was misclassified as salaried exempt and
6 paid an annual salary of **only \$59,670**, which failed to meet the salary threshold test of two times
7 minimum wage (i.e., Aggrieved Employees), which was \$64,480 in 2023 and \$66,560 in 2024.¹ In
8 performing her job, Plaintiff often worked more than eight hours per day and more than 40 hours per
9 week, including regularly sending and responding to work emails after hours and on weekends, but she
10 was never paid overtime wages. However, because she was deemed “salaried,” 2020 Companies did not
11 provide her with any designated rest periods or meal periods. As a result, she rarely took legally
12 compliant rest or meal periods, but she was never paid premium wages for non-compliant meal periods
13 or rest periods.

14 2. In performing her job, Plaintiff worked remotely from her home office and was often in
15 the field or travelling. She incurred an array of work-related expenses, including home Wi-Fi, printer
16 ink, office supplies, use of personal cellular phone, use of personal vehicle, for which she was not
17 reimbursed. Although 2020 Companies paid her a monthly expense stipend of only \$50, this amount did
18 not cover the actual costs Plaintiff incurred in carrying out her job duties. Moreover, one of Plaintiff’s
19 expense reports consisting of over \$3,000 in work-related expenses was denied by her manager, Craig
20 Entwistle, as being “late” according to the company’s purported policy requiring “timely” submission
21 of expense reports.

22 3. Based on the foregoing, 2020 Companies committed an array of wage and hour violations
23 against Plaintiff and others, most of which were a result of 2020 Companies misclassifying Plaintiff
24 (and likely others) as salaried exempt employees, including: (i) failing to pay earned minimum wages,
25 regular wages, and/or overtime wages; (ii) failing to provide compliant off-duty rest periods and/or
26 required premium wages; (iii) failing to provide compliant off-duty rest periods and/or required premium
27 wages; (iv) failing to pay or reimburse for business expenses; (v) based on the foregoing violations,

28 ¹ See Cal. Code of Regs., tit. 8, § 11040 (for each exempted category of worker, the employee must earn “a monthly salary equivalent of no less than two (2) times the state minimum wage for full-time employment”).

1 willfully furnishing itemized wage statements to Plaintiff and many other similarly situated employees
2 that did not accurately state, among other things, gross wages earned, total hours worked, deductions,
3 net wages earned, hourly rates, the number of hours worked, and hourly rates as applied to hours worked;
4 and (vi) failing to timely pay all wages due upon termination and then pay the required “waiting time”
5 penalties.

6 **PRELIMINARY ALLEGATIONS**

7 4. This Court has jurisdiction over this matter under PAGA and this Court’s general powers
8 granted by statutory law and the California Constitution.

9 5. Plaintiff ESPERANZA WOOLEVER is, and at relevant times was, an individual
10 domiciled in the State of California and a citizen of the State of California who worked as a non-exempt
11 employee remotely in California.

12 6. Defendant 2020 COMPANIES, INC. is a Delaware Corporation doing business in
13 Sacramento, California.

14 7. Venue is proper because Plaintiff worked and resided in Sacramento California and a
15 substantial portion of the events at issue in this matter occurred within Sacramento County, California.

16 8. The true names and capacities of the DOE Defendants sued herein as DOES 1 through
17 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
18 names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts
19 alleged herein. Plaintiff will seek leave of Court to amend this Complaint to reflect the true names and
20 capacities of the Doe Defendants when such identities become known.

21 9. At all relevant times, each and every Defendant was acting as an agent and/or employee
22 of each of the other Defendants and was acting within the course and/or scope of said agency and/or
23 employment with the full knowledge and consent of each of the Defendants. Each of the acts and/or
24 omissions complained of herein were alleged and made known to, and ratified by, each of the other
25 Defendants. Defendants 2020 COMPANIES and Doe Defendants are hereafter collectively referred to
26 as “Defendants.”

27 10. At all relevant times, Defendants were, and are, legally responsible for all of the unlawful
28 conduct, policies, practices, acts and omissions complained of herein as the employer of Plaintiff and

1 Aggrieved Employees. Further, Defendants are responsible for each of the unlawful acts or omissions
2 complained of herein under the doctrine of *respondeat superior*. The conduct of Defendants' managers
3 and supervisors was at all relevant times undertaken as employees of Defendants, acting within the scope
4 of their employment or authority in all of the unlawful activities described herein.

5 11. Plaintiff gave written notice by certified mail of Defendant's violations of various
6 provisions of the California Labor Code as alleged in this complaint to the Labor and Workforce
7 Development Agency ("LWDA") and Defendant. Plaintiff's notice is attached hereto as **Exhibit A**.

8 12. The LWDA did not provide notice of its intention to investigate Defendants' violations.

9 **FIRST CAUSE OF ACTION**

10 **Failure To Pay Overtime Wages [Lab. Code §§ 510, 558, 1194]**

11 **(By Plaintiff Against All Defendants)**

12 13. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully
13 set forth in this cause of action.

14 14. Defendants have failed to maintain a policy that compensates Plaintiff and other non-
15 exempt employees for all hours worked, including overtime.

16 15. Defendants have required Plaintiff to work hours qualifying her for significant overtime
17 compensation but has not paid her overtime compensation. As a result, Plaintiff has been denied "the
18 unpaid balance of the full amount of this . . . overtime compensation" as required by Labor Code section
19 1194.

20 16. As a result of these violations and violations of the Labor Code sections 510, 558, 1194,
21 and applicable Industrial Welfare Commission Wage Orders for failure to pay overtime, Plaintiff and
22 other non-exempt employees are entitled to wages, penalties, interest and attorney's fees.

23 **SECOND CAUSE OF ACTION**

24 **Failure To Pay Minimum and/or Straight Wages [Lab. Code §§ 204, 1182.12, 1194, 1194.2, 1197,**
25 **1197.1]**

26 **(By Plaintiff Against All Defendants)**

27 17. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully
28 set forth in this cause of action.

18. Defendants regularly failed to pay Plaintiff earned minimum wages and straight time wages by, among other things, failing to pay them for work done during meal periods and before and after work shifts as required by Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1, and applicable wage orders. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation.

19. As a result of violations of Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1, 1199 and applicable wage orders for failure to pay minimum wage, Employer is liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2698 *et seq.*

THIRD CAUSE OF ACTION

Failure To Provide Proper Meal Periods [Lab. Code §§ 226.7, 512, 1194]

(By Plaintiff Against All Defendants)

20. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully set forth in this cause of action.

21. For the relevant time period, Defendants were required to provide Plaintiff with meal periods that comply with the California Labor Code and applicable regulations and wage orders, including Labor Code sections 226.7 and 512.

22. Defendants regularly failed to provide, and in fact denied, Plaintiff with statutorily compliant meal periods. Among other things, Defendants: (i) regularly designed and staffed shifts in a way that did not allow Plaintiff to timely take adequate off-duty meal periods mandated by law, including the requisite second meal period during work shifts; (ii) failed to pay Plaintiff the premium compensation mandated by Labor Code section 226.7; and (iii) discouraged the taking of proper meal breaks via a companywide, systematic policy.

23. Plaintiff is informed and believes and thereon alleges that Defendants willfully failed to pay Plaintiff the proper meal period premium wages for all non-compliant or missed meal periods.

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1 **FOURTH CAUSE OF ACTION**

2 **Failure To Provide Proper Rest Periods [Lab. Code §§ 226.7, 512, 1194]**

3 **(By Plaintiff Against All Defendants)**

4 24. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully
5 set forth in this cause of action.

6 25. For the relevant time period, Defendants were required to provide Plaintiff with rest
7 periods that comply with the Labor Code and applicable regulations and Wage Orders, including Labor
8 Code section 226.7.

9 26. Defendants also regularly failed to compensate Plaintiff (and other similarly situated
10 employees paid on a commission basis) at least the minimum wage for time spent on rest breaks in
11 violation of *Vaquero v. Stoneledge Furniture LLC*, 9 Cal.App.5th 98 (2017).

12 27. Defendants regularly failed to provide, and in fact denied, Plaintiff with statutorily
13 compliant rest periods. Among other things, Defendants: (i) regularly designed and staffed shifts in a
14 way that did not allow Plaintiff to timely take adequate off-duty rest periods mandated by law; (ii) failed
15 to pay Plaintiff the premium compensation mandated by Labor Code section 226.7; and (iii) otherwise
16 deterred and prevented employees from taking paid 10-minute rest breaks as mandated under California
17 law. Plaintiff is informed and believes and thereon alleges that Defendants willfully failed to pay
18 Plaintiff the proper rest period premium wages for all non-compliant or missed rest periods.

19 **FIFTH CAUSE OF ACTION**

20 **Failure to Provide Accurate Wage Statements [Labor Code §§ 226, 226.3]**

21 **(By Plaintiff Against All Defendants)**

22 28. Plaintiffs incorporate by this reference the relevant allegations contained herein as if fully
23 set forth in this cause of action.

24 29. California Labor Code section 226(a) sets forth reporting requirements for Employers
25 when they pay wages: "Every Defendants shall . . . at the time of each payment of wages, furnish each
26 of his or her employees . . . an accurate itemized statement in writing showing (1) gross wages earned,
27 (2) total hours worked by the employee . . . (5) net wages earned . . . , and (9) all applicable hourly rates
28 in effect during the pay period and the corresponding number of hours worked at each hourly rate by the

employee.” Cal. Lab. Code § 226(a). “An employee suffering injury as a result of a knowing and intentional failure by an Defendants to comply with subdivision (a) shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” Cal. Lab. Code § 226(e)(1). “An employee is deemed to suffer injury for purposes of this subdivision if the Defendants fails to provide accurate and complete information as required by . . . subdivision (a)”

30. During the relevant time period, Defendants have not furnished Plaintiff with timely itemized wage statements accurately showing, among other things, gross wages earned, total hours worked, net wages earned, and/or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate of Plaintiff.

31. Defendants intentionally failed to furnish Plaintiff accurate wage statements upon each payment of wages, in violation of California Labor Code section 226(a). Plaintiff was injured and damaged by these failures because, among other things, these failures led her to believe she was not entitled to overtime wages or paid premium pay wages for non-compliant meal periods and rest periods, although she was so entitled.

32. Pursuant to Labor Code sections 204, 218.5, and 226, or other applicable law, Plaintiff is entitled to recover his regular wages, as well as penalties, interest, injunctive relief, costs, and attorneys’ fees.

SIXTH CAUSE OF ACTION

Failure To Reimburse Work-Related Expenses [Lab. Code §§ 510, 558, 1194]

(By Plaintiff Against All Defendants)

33. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully set forth in this cause of action.

34. Labor Code section 2802 provides that “[a]n employer shall indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties” Subsection (c) of Labor Code section 2802 further provides that “[f]or purposes

1 of this section, the terms necessary expenditures or losses” shall include all reasonable costs, including
2 but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”
3 See also, *Cochran v. Schwan’s Home Services, Inc.*, 228 Cal.App.4th 1137 (2014).

4 35. As set forth herein, Defendants required Plaintiff to incur, without payment or
5 reimbursement, various work-related expenses including, among other things, regularly and consistently
6 using her own personal cellular phone and personal vehicle, incurring home internet charges, incurring
7 office supply expenses including printer ink without reimbursement. Such costs were incurred in direct
8 consequence of the employees’ discharge of his or her duties and they were reasonable and necessary.
9 Such costs should have been, but never were, reimbursed.

10 36. Pursuant to section 2802 and other applicable law, Plaintiff is entitled to recover from
11 Defendants reimbursement of all necessary expenditures or losses, interest, penalties, and attorneys’
12 fees, among other things.

13 **SEVENTH CAUSE OF ACTION**

14 **Unfair Competition [Bus. & Prof. Code § 17200]**

15 **(By Plaintiff Against All Defendants)**

16 37. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully
17 set forth in this cause of action.

18 38. Defendants’ acts constitute a continuing and ongoing unlawful activity prohibited by the
19 Business and Professions Code section 17200 (“UCL”) and justifies the issuance of an injunction,
20 restitution, and other equitable relief pursuant to California Business and Professions Code section
21 17203.

22 39. California Labor Code section 90.5 articulates the public policy of California to
23 vigorously enforce minimum labor standards, including the requirements to pay overtime wages
24 pursuant to Labor Code section 510, pay minimum wages pursuant to Labor Code section 1197, provide
25 adequate meal and rest periods pursuant to Labor Code sections 226.7 and 512, and pay employees’
26 work-related expenses pursuant to Labor Code section 2802, among other things.

27 40. Defendants’ conduct directly violates state law, constitutes unfair competition and
28 unlawful and unfair acts and practices within the meaning of the UCL.

41. For the four (4) years preceding this lawsuit, Defendants engaged and continued to engage in unfair and unlawful business practices in California by practicing, employing and utilizing the employment practices outlined above.

42. Defendants' use of such unlawful and unfair business practices constitutes unfair competition and provides an unfair advantage over its competitors.

43. Defendants' wrongful business practices have caused injury to Plaintiff and others, depriving them of the minimum working standards and conditions due them under California law and the Industrial Welfare Commission wage orders.

44. Pursuant to section 17203 of the California Business and Professions Code, Plaintiff seeks an order of this court enjoining Defendants from continuing to engage in unlawful, unfair, or deceptive business practices and any other act prohibited by law, including those set forth in the complaint. Plaintiff also seeks an order requiring Defendants to make full restitution of all moneys it wrongfully obtained and withheld from Plaintiff.

EIGHTH CAUSE OF ACTION

Violation of Private Attorneys General Act [Lab. Code § 2698 et seq.]

(By Plaintiff Against All Defendants)

45. Plaintiff incorporates by this reference the relevant allegations contained herein as if fully set forth in this cause of action.

46. Plaintiff is an “Aggrieved Employee” under PAGA, as she was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorney’s fees and costs.

47. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal 4th 969 (2009). Therefore, class certification of the PAGA claims is not required.

48. Plaintiff seeks civil penalties pursuant to PAGA for Defendants' unlawful wage and hour practices, including but not limited to, as stated herein: (i) failing to pay overtime; (ii) failing to pay minimum wages and straight wages; (iii) failing to provide uninterrupted off-duty meal periods and/or

required penalties; (iv) failing to provide uninterrupted off-duty rest periods and/or required penalties; (v) failing to maintain adequate records; (vi) failing to furnish accurate wage statements; and (vii) failing to pay and/or reimburse employees for costs incurred for business-related expenses.

49. Plaintiff seeks PAGA penalties as forth and allowed under Labor Code section 2699(f) and/or other applicable sections.

50. Labor Code violations alleged in this PAGA action include the following:

- a. California Labor Code section 1198 (standard conditions of labor);
- b. California Labor Code section 510 (failure to pay overtime/double-time);
- c. California Labor Code sections 1194, 1194.2, 1197 and 1197.1 (failure to pay minimum wages);
- d. California Labor Code sections 226.7 and 512(a) (unpaid meal period premiums);
- e. California Labor Code sections 226.7 (unpaid rest break premiums);
- f. California Labor Code sections 204, 210 (payment of wages);
- g. California Labor Code sections 1174, Industrial Wage Orders (failure to maintain records);
- h. California Labor Code section 558 (failure to comply with requirements regulating hours and days of work);
- i. California Labor Code sections 226(a) and 226.3 (non-compliant wage statements);
- j. California Labor Code section 2802 (failure to pay work-related expenses);

51. Accordingly, Plaintiff respectfully requests that the Court award judgment and relief in his favor as described herein.

52. Pursuant to section 2699(g) of the Labor Code, or other applicable law, Plaintiff is entitled to recover statutory penalties, interest, injunctive relief, costs, and attorneys' fees.

PRAYER FOR RELIEF

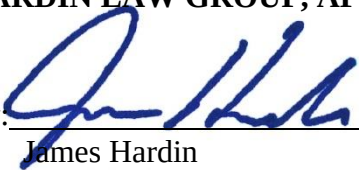
WHEREFORE, Plaintiff prays for relief and judgment as follows:

1. Applicable statutory and/or civil penalties pursuant to PAGA;

2. Reasonable attorneys' fees and costs pursuant to California Labor Code section 2699(g) and other applicable law;
3. Wages, civil penalties, and applicable statutory penalties;
4. General and compensatory damages;
5. Pre-judgment and post-judgment interest;
6. Attorneys' fees and costs reasonably incurred, including without limitation under Labor Code sections 218.5, 1102.5, 1194(a), 204, 226(e), and 2802(c);
7. Punitive and/or exemplary damages, if allowed;
8. Equitable relief in the nature of declaratory relief, injunctive relief, and/or restitution as applicable;
9. Such other relief that the Court deems proper.

Dated: August 23, 2024

HARDIN LAW GROUP, APC

By: 

James Hardin

Attorneys for Plaintiff

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Dated: August 23, 2024

By: 
James Hardin
Attorneys for Plaintiff

EXHIBIT A

April 24, 2024

Via Certified U.S. Mail

California Labor & Workforce
Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(Via Online Submission)

2020 COMPANIES, INC.
Attn: Jingle Judge
1900 W. Kirkwood Blvd, Suite 1300B
Southlake, TX 76092

2020 COMPANIES, INC.
Attn: Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

Re: PAGA Notice Pursuant to California Labor Code § 2699: Esperanza Woolever v. Employer(s)
(2020 Companies, Inc.)

Dear Sir or Madam:

Please be advised that Esperanza Woolever (“Plaintiff” or “Ms. Woolever”) has retained Hardin Law Group, APC to represent her and other aggrieved employees for wage and hour claims against their current and/or former employer 2020 Companies, Inc. and/or any other responsible entities or affiliates, (collectively “Employer”). This notice is being provided via certified mail to the Employer at their principal place of business and agent for service of process (if any) and is being filed with the California Labor and Workforce Development Agency (“LWDA”) via the LWDA’s electronic filing system under Section 2699.3(b) of the Labor Code.

Plaintiff requests that the LWDA regard this Notice as written notice of her intent to seek civil penalties against Employer. The specific provisions of the California Labor Code (“Labor Code”) that Employer has violated requiring this notice include, but are not limited to California Labor Code sections 201-203, 204, 208, 210, 216, 218.5, 226, 226.3, 226.6, 226.7, 256, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2775, 2802 and all applicable Industrial Welfare Commission Wage Orders (“Wage Orders”).

The Employer

Employer owns and operates one or more business locations in California. Employer hired various sales employees (“Aggrieved Employees”) to perform services in California who were subjected to the violations alleged herein, including those who were misclassified as salaried exempt. Plaintiff is informed and believes that Employer has generally employed more than twenty-five (25) employees working within California.

Employer has violated or caused to be violated several Labor Code provisions and is therefore liable for civil penalties under Labor Code sections 2698-2699.5, *et seq.* Plaintiff respectfully requests that your agency investigate the claims alleged against it herein. This letter will serve as notice of these allegations pursuant to the Private Attorney Generals Act of 2004 (“PAGA”). Cal. Lab. Code § 2699.3.

Factual Background – Plaintiff and Aggrieved Employees

At all relevant times, Plaintiff was an aggrieved employee, as defined in Labor Code section 2699(c) as: “any person who was employed by the alleged violator and against whom one or more violations was committed.” Plaintiff seeks recovery for the Labor Code and Wage Order violations set forth herein on behalf of herself and other current and former employees, including but not limited to all similarly situated employees in the State of California within one year of the filing of this Notice and who were subject to the same or similar Labor Code and Wage Order violations as Plaintiff.

First, Employer misclassified Plaintiff and other employees as salaried exempt by failing to meet the salary threshold test of two times minimum wage (i.e., Aggrieved Employees), which was \$64,480 in 2023 and \$66,560 in 2024. Employer paid Ms. Woolever a salary of only \$59,670, failing this threshold requirement. *See* Cal. Code of Regs., tit. 8, § 11040 (for each exempted category of worker, the employee must earn “a monthly salary equivalent of no less than two (2) times the state minimum wage for full-time employment”).

Second, Plaintiff and Aggrieved Employees were misclassified as salaried exempt and therefore were not “provided” the requisite 10-minute rest periods because Employer did not schedule nor offer 10-minute rest periods; and it never paid the requisite one-hour wage penalty for such non-compliant rest periods.

Third, Plaintiff and Aggrieved Employees were misclassified as salaried exempt and therefore were not “provided” the requisite 30-minute meal periods for shifts greater than 5 hours; and Employer never paid the requisite one-hour wage penalty for such non-compliant meal periods.

Fourth, Plaintiff and Aggrieved Employees are owed minimum wages, regular wages, and overtime wages for not being paid for “all time worked” due to Employer misclassifying them as salaried exempt. Plaintiff regularly worked more than eight hours per day, more than forty hours per week, and worked through lunches without ever being paid overtime wages. She also was often not paid regular wages or minimum wages for her work for Employer.

Fifth, Plaintiff and Aggrieved Employees are owed reimbursement for the cost of having to regularly incur costs for business-related functions, including paying out-of-pocket for home Wi-Fi,

printer ink, office supplies, use of personal cellular phone, and use of personal vehicle, which were not covered by the monthly expense stipend of \$50.

Sixth, Employer violated section Labor Code section 226(a) by willfully failing to furnish Plaintiff and Aggrieved Employees with accurate itemized wage statements on many pay periods, in that the itemized wage statements provided did not accurately state, among other things, gross wages earned, total hours worked, deductions, net wages earned, hourly rates, the number of hours worked, and hourly rates as applied to hours worked.

Seventh, given Employer's wage and hour violations noted herein, Employer failed to pay all wages due to Plaintiff and Aggrieved Employees upon termination.

Thus, at all relevant times, Employer regularly fails to pay and/or provide Plaintiff and Aggrieved Employees: (1) compliant off-duty rest periods and/or required premium wages; (2) compliant off-duty meal periods and/or required premium wages; (3) earned minimum wages, regular wages, and/or overtime wages due; (4) proper and/or accurate wage statements; (5) reimbursement for business expenses such as use of personal cellular phones; (6) all wages due upon termination; (7) the required "waiting time" penalties; and (8) adequate recordkeeping as required by Labor Code.

Labor Code Violations

Misclassification of Employees as Salaried Exempt

Employer misclassified Plaintiff and its other sales representatives, i.e., Aggrieved Employees, as salaried exempt by failing to meet the salary threshold test of two times minimum wage, which was \$64,480 in 2023. Employer paid Ms. Woolever a salary of only \$60,000, failing this threshold requirement. See Cal. Code of Regs., tit. 8, § 11040 (for each exempted category of worker, the employee must earn "a monthly salary equivalent of no less than two (2) times the state minimum wage for full-time employment").

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

Labor Code section 226.7 and Wage Orders require every California employer to authorize and permit all non-exempt employees to take rest periods at the rate of ten (10) minutes net rest time per four (4) hours, or a major fraction thereon. Under subdivision (a), an employer shall not require an employee to work during rest periods mandated by state law. Subdivision (c) provides that "[i]f an employer fails to provide an employee a rest period in compliance with an applicable statute, wage order, etc. . . the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the rest . . . period is not provided."

Because Employer misclassified Employee and Aggrieved Employees as salaried exempt, Employer has, among other things, failed to: (1) maintain a policy that provides Plaintiff and Aggrieved Employees with off-duty rest periods as required by California law; (2) provide Plaintiff and Aggrieved Employees with a reasonable opportunity to take compliant rest periods at the appropriate times; and (3) failed to pay Plaintiff and Aggrieved Employees an additional hour of pay at their regular rate of pay for each missed or late rest period. Among other things, Plaintiff and Aggrieved Employees were

regularly not provided compliant rest periods and were not paid an additional hour of pay at their regular rate of for each such rest period.

As a result of Employer's violations of Labor Code sections 226.7, 226.7(b), and 512, Employer is liable for civil penalties pursuant to Labor Code sections 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

Labor Code section 512 and Wage Orders require every California employer to provide all non-exempt employees a duty-free meal period of not less than 30 minutes, for a work period of more than five (5) hours, "except that if the total work period per day is not more than six (6) hours, the meal period may be waived by mutual consent of the employer and employee. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours work is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived." Under subdivision (a) of Labor Code section 226.7, an employer shall not require an employee to work during meal periods mandated by state law. Subdivision (c) provides that "[i]f an employer fails to provide an employee a meal . . . period in compliance with an applicable statute, wage order, etc. . . . the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal . . . period is not provided."

Because Employer misclassified Employee and Aggrieved Employees as salaried exempt, Employer has, among other things, failed to: (1) maintain a policy that provides Plaintiff and Aggrieved Employees with off-duty meal periods as required by California law; (2) provide Plaintiff and Aggrieved Employees with a reasonable opportunity to take compliant meal periods at the appropriate times; and (3) failed to pay Plaintiff and Aggrieved Employees an additional hour of pay at their regular rate of pay for each missed or late meal period. Among other things, Plaintiff and Aggrieved Employees were regularly not provided compliant meal periods and were not paid an additional hour of pay at their regular rate of for each such meal period.

As a result of Employer's violations of Labor Code sections 226.7, 226.7(b), 512, and 1198, Employer is liable for civil penalties pursuant to Labor Code sections 558 and 2698 *et seq.*

Unlawful Failure to Pay Minimum Wages, Regular Wages, and Overtime Wages

Because Employer misclassified Employee and Aggrieved Employees as salaried exempt, Employee and Aggrieved Employees are owed minimum wages, regular wages, and overtime wages for not being paid for "all time worked." Employee and Aggrieved Employees regularly worked more than eight hours per day, more than forty hours per week, and worked through lunches without ever being paid overtime wages. Employee and Aggrieved Employees were often not paid regular wages or minimum wages for their work at Employer.

As a result of violations of the Labor Code sections 510, 1194, and applicable Wage Orders for failure to pay overtime, Employer is liable for civil penalties pursuant to Labor Code sections 558 and 2699 *et seq.* Employer has also failed to compensate Plaintiff and Aggrieved Employees an amount

equal to or greater than the minimum wage for all hours worked, as required by Labor Code sections 1182.12, 1194, 1197, 1197.1, and applicable Wage Orders. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation. As a result of violations of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198 and applicable Wage Orders for failure to pay minimum wage, Employer is liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699 *et seq.*

Unlawful Failure to Reimburse Business Expenses

Labor Code section 2802 provides that “[a]n employer shall indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties” Labor Code section 2802(c) provides that ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section” and section 2802(d) provides that “citations or civil penalties shall be the same as those set forth in Section 1197.1.” *See also Cochran v. Schwan’s Home Services, Inc.*, 228 Cal.App.4th 1137 (2014).

Among other things, Employer required Plaintiff and Aggrieved Employees to incur out-of-pocket expenses, such as including home Wi-Fi, printer ink, office supplies, use of personal cellular phone, use of personal vehicle, for business-related functions for Employer without sufficient reimbursement. Moreover, one of Ms. Woolever’s expense reports consisting of over \$3,000 in work-related expenses was denied by her manager, Craig Entwistle, as being “late” according to the company’s purported policy requiring “timely” submission of expense reports.

As a result of Employer’s violations of Labor Code section 2802, Employer is liable for civil penalties pursuant to Labor Code sections 2802, 1197.1, and 2699 *et seq.*

Unlawful Failure to Furnish Accurate Wage Statements

Labor Code section 226 requires an employer to provide employees with accurate itemized wage statements showing (1) gross wages earned, (2) total hours worked by a non-exempt employee, (3) piece rates, if applicable, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is being paid, (7) the name of the employee and his or her social security number or identification number, (8) the name and address of the legal entity that is the employer, and (9) all hourly rates in effect and the corresponding number of hours worked. In addition, any payment made in cash must be accompanied by an itemized wage statement that meets the conditions set forth above. Wage Order 5, section 7(B) requires an employer to provide the same information.

Labor Code 226.3 provides that “any employer who violates subdivision (a) of section 226 shall be subject to a civil penalty in the amount of two-hundred and fifty dollars (\$250) per employee per violation in an initial citation, and one-thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records in subdivision (a) of section 226. The penalties provided for in this section are in addition to any other penalty provided by law.”

Employer has violated Labor Code section 226(a) by willfully failing to furnish Plaintiff and Aggrieved Employees with any itemized statements on many pay periods, and on other pay periods the itemized wage statements provided did not accurately state, among other things, gross wages earned, total hours worked, deductions, net wages earned, hourly rates and number of hours worked, and the legal entity that is the employer. As a result of violations of Labor Code section 226(a), Employers are liable for civil penalties pursuant to Labor Code sections 226.3 and 2698 *et seq.*

Unlawful Failure to Timely Pay Wages Owed Including those Due Upon Termination

Labor Code section 201 provides “if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code section 202 provides “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his intention to quit, in which case the employee is entitled to his wages at the time of quitting.” Labor Code section 208 requires that all final wages be paid to an employee who is terminated at the place of discharge and to an employee who voluntarily resigns at the place where the employee has been working.

Employer has violated Labor Code sections 201 and 202 by willfully failing to timely pay all compensation due and owing to Plaintiff and all former Aggrieved Employees at the time employment was terminated because of, as noted herein, said unpaid vacation/PTO wages, one-hour penalties for missed, interrupted, or untimely meal periods and rest periods, among others. Labor Code sections 201 and 227.3 require an employer who discharges an employee to pay all compensation due and owing to that employee immediately upon discharge. Labor Code section 202 requires an employer to pay all compensation due and owing to an employee who quits within 72 hours of that employee quitting, unless the employee provides at least 72-hours’ notice of quitting, in which case all compensation is due at the end of the employee’s final day of work. Labor Code section 203 provides that if an employer willfully fails to pay compensation promptly upon discharge, as required by sections 201 or 202, then the employer is liable for waiting time penalties in the form of continued compensation of up to 30 workdays.

Pursuant to Labor Code section 1199, “Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100) or by imprisonment for not less than 30 days, or by both, who does any of the following: (a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission. (b) Pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission. (c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.”

Employer willfully failed to pay Aggrieved Employees no longer employed by it all compensation due upon termination of employment as required under Labor Code sections 201 and 202. Pursuant to sections 203 and 256 of the Labor Code, Plaintiff and similarly situated individuals are now entitled to recover up to thirty (30) days of wages due to Employer’s willful failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code. In addition, because

Employer violated Labor Code sections 201, 202, and 203, Employer is liable for civil penalties pursuant to Labor Code section 2699 *et seq.*

Unlawful Violation of Labor Code Section 1199

Under Labor Code sections 1199(a) and (c) and 2699.5 *et seq.*, an employer who “requires or causes an employee to work for longer hours than those fixed” or “violates or refuses or neglects to comply with any provision of” the Labor Code regarding employees’ wages, hours, and working conditions is subject to PAGA penalties. Employers have violated the Labor Code in various ways set forth herein.

Unlawful Failure to Maintain Adequate Records

Labor Code section 1174 states, in pertinent part, that “[e]very person employee labor in this state shall . . . (c) Keep a record showing the names and addresses of all employees employed . . . [and] (d) Keep, at a central location in the state . . . or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to . . . employees employed at the respective . . . establishments. These records shall be kept . . . in a file for not less than three years. . . Likewise, Wage Order 5, section 7 requires that “(A) [e]very employer shall keep accurate information with respect to each employee including the following: (1) the full name, home address, occupation and social security number (2) Birth date . . . (3) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals and total daily hours worked shall also be recorded . . . (5) Total hours worked in the payroll period and the applicable rates of pay. This information shall be made readily available to the employee upon reasonable request . . .” In addition, Labor Code section 353 also requires employers to keep accurate records of all gratuities or tips they receive, directly or indirectly, which may not be collected by “managers” or owners under Labor Code section 351. Labor Code section 1174.5 provides that “any person employing labor who willfully fails to maintain the records required under subdivision (c) of section 1174 or accurate or complete records required by subdivision (d) of section 1174 . . . shall be subject to a civil penalty of five hundred dollars (\$500). Subdivision (d) of section 1174.5 states that “[a]ny person, or officer or agent thereof, is guilty of a misdemeanor who fails to keep any of the records required by section 1174.

For the reasons and bases noted here, Employer has, among other things, willfully failed to maintain adequate records regarding Plaintiff and Aggrieved Employees.

Conclusion

Based on the above, Employer is in violation of California Labor Code section 2699.5 including but limited to the following¹:

¹ Without limitation, Plaintiff, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each of the following that are applicable, as is set forth in Labor Code Section 2699.5, which states:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230,

1. California Labor Code § 2775 (misclassification of employees as independent contractors)
2. California Labor Code §§ 226(a) and 226.3 (non-compliant wage statements);
3. California Labor Code § 1198 (standard conditions of labor);
4. California Labor Code § 510 (failure to pay overtime/doubletime);
5. California Labor Code §§ 201, 202 and 203 (wages not timely paid upon termination);
6. California Labor Code § 226.7 (unpaid rest break premiums);
7. California Labor Code §§ 226.7 and 512(a) (unpaid meal period premiums);
8. California Labor Code §§ 204 and 210 (payment of wages);
9. California Labor Code § 1174, Industrial Wage Orders (failure to maintain records);
10. California Labor Code § 558 (failure to comply with requirements regulating hours and days of work);
11. California Labor Code § 2802 *et seq.* (failure to reimburse for business expenses); and
12. California Labor Code §§ 1194, 1194.2, 1197 and 1197.1 (unpaid minimum wages).

Plaintiff requests that the agency investigate the above allegations and provide notice of the allegations pursuant to PAGA's provision. Alternatively, Plaintiff requests the agency inform them if it does not intend to investigate these violations so that she may include in their lawsuit the violations discussed in this letter.

Very truly yours,

HARDIN LAW GROUP, APC
A Professional Corporation


James B. Hardin

JBH/br

230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.