

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

ASD6 LLC, a California Limited Liability Company; and DOES 1 through 50, Inclusive;

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

BRITTNEY JONES, an individual, in her representative capacity on behalf of the State of California and fellow Aggrieved Employees,

*FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)*

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**04/15/2021** at 01:35:48 PM  
Clerk of the Superior Court  
By Yvette Mapula, Deputy Clerk

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.*

The name and address of the court is:  
(El nombre y dirección de la corte es):  
San Diego Superior Court - Hall of Justice  
330 W. Broadway  
San Diego, CA 92101

CASE NUMBER: 37-2021-00016864-CU-DE-CTL  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Shani O. Zakay, Esq. (SBN 277924); T: 619-255-9047; F: 858-404-9203  
Zakay Law Group, APLC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

DATE: 04/16/2021 Clerk, by \_\_\_\_\_, Deputy  
(Fecha) (Secretario) Y. Mapula (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
1.  as an individual defendant.
  2.  as the person sued under the fictitious name of (specify):
  3.  on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
  4.  by personal delivery on (date):

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11 ATTORNEYS FOR PLAINTIFF

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SAN DIEGO**

14 BRITTNEY JONES, an individual, in her  
15 representative capacity on behalf of the State of  
16 California and fellow Aggrieved Employees,

16 Plaintiffs,

17 vs.

18 ASD6 LLC, a California Limited Liability  
19 Company; and DOES 1 through 50, Inclusive;

20 Defendants.

Case No. 37-2021-00016864-CU-OE-CTL

**REPRESENTATIVE ACTION  
COMPLAINT FOR:**

1. VIOLATIONS OF THE PRIVATE  
ATTORNEY GENERAL ACT AT  
LABOR CODE SECTIONS 2698 *ET  
SEQ.*

**DEMAND FOR JURY TRIAL**

1 Plaintiff BRITTNEY JONES (“PLAINTIFF”) an individual, in her representative capacity on  
2 behalf of the herself, the State of California, and fellow current and former AGGRIEVED  
3 EMPLOYEES, defined *supra*, against ASD6 LLC (“DEFENDANT”), alleges on information and  
4 belief, except for her own acts and knowledge which are based on personal knowledge, the following:

5 **INTRODUCTION**

6 1. PLAINTIFF brings this representative action pursuant to the Private Attorneys General  
7 Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former  
8 aggrieved employees of DEFENDANT for engaging in a pattern and practice of wage and hour  
9 violations under the California Labor Code.

10 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT decreased  
11 their employment-related costs by systematically violating California wage and hour laws.

12 3. DEFENDANT’s systematic pattern of wage and hour and IWC Wage Order violations  
13 toward PLAINTIFF and other aggrieved employees in California include, *inter alia*:

- 14 a. Failure to provide compliant meal and rest periods;
- 15 b. Failure to allow employees to take duty-free, off-the-premises rest periods;
- 16 c. Failure to pay all minimum, regular and overtime wages;
- 17 d. Failure to maintain true and accurate records;
- 18 e. Failure to pay all reporting time wages;
- 19 f. Failure to provide accurate itemized wage statements;
- 20 g. Failure to reimburse employees for required business expenses; and
- 21 h. Failure to timely pay wages due during, and upon termination of employment.

22 4. PLAINTIFF brings this representative action against DEFENDANT on behalf of herself  
23 and all other aggrieved employees of DEFENDANT in California seeking all civil penalties and unpaid  
24 wages permitted pursuant to California Labor Code § 2699, *et seq.*

25 5. PLAINTIFF reserves the right to name additional representatives throughout the State of  
26 California.

27 ///

1 **THE PARTIES**

2 6. Defendant ASD6 LLC (“DEFENDANT”) is a limited liability company and at all relevant  
3 times mentioned herein conducted and continues to conduct substantial and regular business throughout  
4 California.

5 7. DEFENDANT owns and operates a nursing home facility. DEFENDANT provides  
6 special care, rehabilitation services and other offerings for seniors at their headquarters in San Diego  
7 County where PLAINTIFF worked for DEFENDANT.

8 8. PLAINTIFF was employed by DEFENDANT in California as a non-exempt employee  
9 entitled to minimum wages, overtime pay and meal and rest periods from January of 2020 to October  
10 of 2020. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT as a non-  
11 exempt employee paid on an hourly basis, entitled to minimum wage and overtime pay and to compliant  
12 meal and rest breaks.

13 9. PLAINTIFF brings this action in her representative capacity on behalf of the State of  
14 California and on behalf of all of DEFENDANT’s current and former non-exempt employees employed  
15 in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et*  
16 *seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for DEFENDANT between January  
17 15, 2020 and the present (“PAGA PERIOD”).

18 10. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code §  
19 2699(c) because she was employed by DEFENDANT and suffered one or more of the alleged Labor  
20 Code violations committed by DEFENDANT.

21 11. PLAINTIFF and all other AGRIEVED EMPLOYEES are, and at all relevant times were,  
22 employees of DEFENDANT, within the meanings set forth in the California Labor Code and the  
23 applicable Industrial Welfare Commission Wage Order.

24 12. Each of the fictitiously named defendants participated in the acts alleged in this  
25 Complaint. The true names and capacities of the defendants named as DOES 1 THROUGH 50,  
26 inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint, setting forth  
27 the true names and capacities of these fictitiously named defendants when their true names are  
28

1 ascertained. PLAINTIFF is informed and believes, and on that basis alleges, that each of the fictitious  
2 defendants have participated in the acts alleged in this Complaint.

3 13. DEFENDANT, including DOES 1 THROUGH 50 (hereinafter collectively  
4 “DEFENDANTS”), were PLAINTIFF’s employers or persons acting on behalf of PLAINTIFF’s  
5 employer, within the meaning of California Labor Code § 558, who violated or caused to be violated,  
6 a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days  
7 of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties  
8 for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

9 14. DEFENDANT was PLAINTIFF’s employer or persons acting on behalf of PLAINTIFF’s  
10 employer either individually or as an officer, agent, or employee of another person, within the meaning  
11 of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than  
12 the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid  
13 employee.

14 **JOINT EMPLOYER**

15 15. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to enforce  
16 any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* § 2699(a).)

17 16. Section 558 of the California Labor Code provides that “any employer *or other person*  
18 acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any  
19 provision regulating hours and days of work in any order of the Industrial Welfare Commissions shall  
20 be subject to a civil penalty...” (*Lab. Code* § 558(a).);

21 17. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person* acting  
22 either individually or as an officer, agent, or employee of another person, who pays or causes to be paid  
23 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order  
24 of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

25 18. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held that  
26 a corporate employer’s owners, officers and directors, are subject to civil penalties for the employer’s  
27 failure to pay appropriate wages to its employees, and, since liability under either 558 or 1197.1 does  
28 not depend on a finding of an alter ego, no alter ego allegations or findings are necessary. *Atempa v.*

1 *Pedrazzani*, (2018) 27 Cal.App.5<sup>th</sup> 809; see generally *Ochoa-Hernandez v. Cjaders Food, Inc.* (2009  
2 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203 Cal.App.4<sup>th</sup> 1112, 1145-1146.

3 19. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT, and each  
4 of them, are subject to civil penalties for their failure to pay PLAINTIFF and the aggrieved employees  
5 the appropriate wages as complained of herein and proximately caused the complaints, injuries, and  
6 damages alleged herein.

7 20. At all relevant times, each Defendant, whether named or fictitious, was the agent,  
8 employee or other person acting on behalf of each other Defendant, and, in participating in the acts  
9 alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts  
10 of the other.

11 21. Each Defendant, whether named or fictitious, exercised control over PLAINTIFF's  
12 wages, working hours, and/or working conditions.

13 22. Each Defendant, whether named or fictitious, acted in all respects pertinent to this action  
14 as the agent of the other DEFENDANT, carried out a joint scheme, business plan or policy, and the  
15 acts of each Defendant are legally attributable to the other DEFENDANT.

16 **JURISDICTION AND VENUE**

17 23. This Court has jurisdiction over this Action pursuant to California Code of Civil  
18 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This Court  
19 has jurisdiction over PLAINTIFF's claims for civil penalties under the Private Attorney General  
20 Act of 2004, California Labor Code §2698, *et seq.*

21 24. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections  
22 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides in this County,  
23 and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in  
24 this County and/or conducts substantial business in this County, and (ii) committed the wrongful  
25 conduct herein alleged in this County against PLAINTIFF and the AGGRIEVED EMPLOYEES.

26 **THE CONDUCT**

27 25. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
28 required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time worked, meaning

1 the time during which an employee is subject to the control of an employer, including all the time the  
2 employee is suffered or permitted to work. From time to time, DEFENDANT required PLAINTIFF  
3 and AGGRIEVED EMPLOYEES to work without paying them for all the time they were under  
4 DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF and AGGRIEVED  
5 EMPLOYEES to work off-the-clock without paying them for all the time they performed post-shift  
6 duties, specifically by failing to provide enough labor hours to accomplish all the job tasks that  
7 DEFENDANT expected PLAINTIFF and AGGRIEVED EMPLOYEES to complete on a daily and/or  
8 weekly basis. Further, PLAINTIFF worked off-the-clock as she detailed a daily race for linens, barrels  
9 and other essential hospital supplies. Due to DEFENDANT's general lack of supplies, PLAINTIFF  
10 arrived early and worked off-the-clock in order to properly prepare herself for the shift ahead by  
11 collecting the appropriate supplies. On days PLAINTIFF would arrive on-time, the supplies were often  
12 long gone so PLAINTIFF, under management's direction, began arriving early and working for 10-  
13 15 minutes daily off-the-clock. Without such efforts PLAINTIFF would not be able to perform her  
14 essential job duties and would therefore face the wrath of her supervisors. Additionally, PLAINTIFF  
15 sometimes clocked out at the end of the day and continued to work. PLAINTIFF's overwhelming  
16 patient case load meant that her daily reports for each patient were left unfinished during her provided  
17 work schedule. Thus, PLAINTIFF had to complete such reports and was required to work off-the-  
18 clock to do so. These reports on each patient were vital in ensuring that each patient received the best  
19 care possible from the next set of nursing assistants, and as such, the reports were considered  
20 mandatory by management. Additionally, PLAINTIFF was from time to time interrupted by work  
21 assignments during her meal and rest periods. Specifically, PLAINTIFF was required to work through  
22 meal and rest breaks to attend to her overwhelming case load of patients. As such, PLAINTIFF  
23 remained on call and was expected to perform various job duties during her supposed meal and rest  
24 breaks. Indeed, there were days where PLAINTIFF did not even receive a partial lunch. As a result,  
25 PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited minimum wage and overtime  
26 compensation by from time to time working without their time being accurately recorded and without  
27 compensation at the applicable minimum wage and overtime rates. DEFENDANT's uniform policy  
28

1 and practice not to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is  
2 evidenced by DEFENDANT's business records.

3 26. As a result of their rigorous work schedules, PLAINTIFF and AGGRIEVED  
4 EMPLOYEES were also from time to time unable to take off duty meal breaks and were not fully  
5 relieved of duty for meal periods. PLAINTIFF and other AGGRIEVED EMPLOYEES were required  
6 to perform work as ordered by DEFENDANT for more than five (5) hours during a shift without  
7 receiving an off-duty meal break. Further, DEFENDANT failed to provide PLAINTIFF and  
8 AGGRIEVED EMPLOYEES with a second off-duty meal period each workday in which these  
9 employees were required by DEFENDANT to work ten (10) hours of work. PLAINTIFF and the  
10 AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation and in  
11 accordance with DEFENDANT's strict corporate policy and practice

12 27. During the PAGA PERIOD, from time to time, PLAINTIFF and AGGRIEVED  
13 EMPLOYEES were also required to work in excess of four (4) hours without being provided ten (10)  
14 minute rest periods. Further, these employees were denied their first rest periods of at least ten (10)  
15 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at  
16 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second  
17 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
18 When they did have an opportunity to take their rest breaks, PLAINTIFF and the AGGRIEVED  
19 EMPLOYEES were required to remain on the premises, on-duty and on-call, and subject to  
20 DEFENDANT'S control in accordance with DEFENDANT'S policy. Employers cannot impose  
21 controls where employees may take their rest period. Employers cannot impose controls that prohibit  
22 an employee from taking a brief walk – five minutes out, five minutes back. Here, DEFENDANT's  
23 policy restricts PLAINTIFF and other AGGRIEVED EMPLOYEES from unconstrained walks and  
24 requires these employees to remain on DEFENDANT's premises under DEFENDANT's control  
25 during what should have been their paid, off-duty rest periods. PLAINTIFF and AGGRIEVED  
26 EMPLOYEES were also not provided with one hour wages in lieu thereof. As a result of their rigorous  
27 work schedules, PLAINTIFF and other AGGRIEVED EMPLOYEES were periodically denied their  
28 proper rest periods by DEFENDANT and DEFENDANT'S managers.



1           28.     Under California law, every employer shall pay to each employee, on the established  
2 payday for the period involved, not less than the applicable minimum wage for all hours worked in  
3 the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.  
4 Hours worked is defined in the applicable Wage Order as “the time during which an employee is  
5 subject to the control of an employer and includes all the time the employee is suffered or permitted  
6 to work, whether or not required to do so.

7           29.     In violation of the applicable sections of the California Labor Code and the requirements  
8 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of company  
9 policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and the  
10 AGGRIEVED EMPLOYEES for all time worked. This uniform policy and practice of DEFENDANT  
11 is intended to purposefully avoid the payment of the correct compensation as required by California  
12 law which allowed DEFENDANT to illegally profit and gain an unfair advantage over competitors  
13 who complied with the law. To the extent equitable tolling operates to toll claims by the AGGRIEVED  
14 EMPLOYEES against DEFENDANT, the PAGA PERIOD should be adjusted accordingly.

15          30.     From time to time, when PLAINTIFF and AGGRIEVED EMPLOYEES when they  
16 worked during what was supposed to be their meal breaks or otherwise off the clock, DEFENDANT  
17 also failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES with complete and accurate  
18 wage statements which failed to show, among other things, the correct time worked, including, work  
19 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the  
20 gross wages paid for those periods during the pay period, and the correct penalty payments or missed  
21 meal and rest periods in violation of California Labor Code Sections 226 and 226.2.

22          31.     California Labor Code Section 226 requires an employer to furnish its employees an  
23 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the  
24 number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages  
25 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the  
26 employee and only the last four digits of the employee’s social security number or an employee  
27 identification number other than a social security number, (8) the name and address of the legal entity  
28

1 that is the employer and, (9) all applicable hourly rates in effect during the pay period and the  
2 corresponding number of hours worked at each hourly rate by the employee.

3 32. Aside from the violations listed herein, DEFENDANT failed to issue to PLAINTIFF an  
4 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a  
5 result, from time to time DEFENDANT provided PLAINTIFF and the AGGRIEVED EMPLOYEES  
6 with wage statements which violated Cal. Lab. Code § 226.

7 33. DEFENDANT as a matter of corporate policy, practice and procedure, intentionally,  
8 knowingly and systematically failed to reimburse and indemnify the PLAINTIFF and the  
9 AGGRIEVED EMPLOYEES for required business expenses incurred by the PLAINTIFF and other  
10 AGGRIEVED EMPLOYEES in direct consequence of discharging their duties on behalf of  
11 DEFENDANT. Under California Labor Code Section 2802, employers are required to indemnify  
12 employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code §  
13 2802 expressly states that "an employer shall indemnify his or her employee for all necessary  
14 expenditures or losses incurred by the employee in direct consequence of the discharge of his or her  
15 duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the  
16 employee, at the time of obeying the directions, believed them to be unlawful."

17 34. In the course of their employment, PLAINTIFF and AGGRIEVED EMPLOYEES as a  
18 business expense, were required by DEFENDANT to use their own personal cellular phones, and  
19 personal vehicles for inter-location travel, as a result of and in furtherance of their job duties as  
20 employees for DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost  
21 associated with the use of their personal cellular phones and personal vehicles for DEFENDANT'S  
22 benefit. Specifically, PLAINTIFF and AGGRIEVED EMPLOYEES were required by DEFENDANT  
23 to use their personal cell phones to respond to managers while off the clock. As a result, in the course  
24 of their employment with DEFENDANT the PLAINTIFF and AGGRIEVED EMPLOYEES incurred  
25 unreimbursed business expenses which included, but were not limited to, costs related to the use of  
26 their personal cellular phones and personal vehicles all on behalf of and for the benefit of  
27 DEFENDANT.



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

10           39. PLAINTIFF brings this Representative Action on behalf of the State of California with  
11 respect to herself and all other current and former AGGRIEVED EMPLOYEES employed by  
12 DEFENDANT during the PAGA PERIOD.

13           40. At all relevant times, for the reasons described herein, and others, PLAINTIFF and the  
14 AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANT within the meaning of  
15 Labor Code Section 2699(c).

16           41. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like  
17 PLAINTIFF, on behalf of herself and other current or former employees, to bring a civil action to  
18 recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

19           42. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code  
20 Section 2699.3. By certified letter, return receipt requested, dated January 15, 2021, PLAINTIFF gave  
21 written notice to the Labor and Workforce Development Agency ("LWDA") and to DEENDANT of  
22 the specific provisions of the Labor Code alleged to have been violated, including the facts and theories  
23 to support the alleged violations.

24           43. As of the date of this complaint, more than sixty-five (65) days after serving the LWDA  
25 with notice of DEFENDANT'S violations, the LWDA has not provided any notice by certified mail of  
26 its intent to investigate the DEFENDANT'S alleged violations as mandated by Labor Code Section  
27 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A, PLAINTIFF may  
28 commence and is authorized to pursue this cause of action.

1           44. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the AGGRIEVED  
2 EMPLOYEES are entitled to civil penalties for DEFENDANTS' violations of Labor Code Section 201,  
3 202, 203, 204, 210, 218.5, 226, 226.7, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802 in  
4 the following amounts:

5           a. For violation of Labor Code Sections 201, 202, 203, and 204, one  
6 hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period  
7 for the initial violation and two hundred dollars (\$200) for AGGRIEVED  
8 EMPLOYEE per pay period for each subsequent violation [penalty per  
9 Labor Code Section 2699(f)(2)];

10          b. For violations of Labor Code Section 226(a), a civil penalty in the  
11 amount of two hundred fifty dollars (\$250) for each AGGRIEVED  
12 EMPLOYEE for any initial violation and one thousand dollars for each  
13 subsequent violation [penalty per Labor Code Section 226.3];

14          c. For violations of Labor Code Sections 204, a civil penalty in the  
15 amount of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE  
16 for any initial violation and two hundred dollars (\$200) for AGGRIEVED  
17 EMPLOYEE for each subsequent violation [penalty per Labor Code  
18 Section 210];

19          d. For violations of Labor Code Sections 226.7, 510 and 512, a civil  
20 penalty in the amount of fifty dollars (\$50) for each underpaid  
21 AGGRIEVED EMPLOYEE for the initial violation and hundred dollars  
22 (\$100) for each underpaid AGGRIEVED EMPLOYEE for each subsequent  
23 violation [penalty per Labor Code Section 558];

24          e. For violations of Labor Code Section 2269(a), a civil penalty in the  
25 amount of two hundred fifty dollars (\$250) per AGGRIEVED EMPLOYEE  
26 per violation in an initial citation and one thousand dollars (\$1,000) per  
27 AGGRIEVED EMPLOYEE for each subsequent violation [penalty per  
28 Labor Code Section 226.3];

1 f. For violations of Labor Code Sections 1194, 1197, 1198 and 1199,  
2 a civil penalty in the amount of one hundred dollars (\$100) per  
3 AGGRIEVED EMPLOYEE per pay period for the initial violation and two  
4 hundred dollars fifty (\$250) per AGGRIEVED EMPLOYEE per pay period  
5 for each subsequent violation [penalty per Labor Code Section].

6 45. For all provisions of the Labor Code for which civil penalty is not specifically provided,  
7 Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred dollars (\$100) for each  
8 AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars (\$200) for  
9 each AGGRIEVED EMPLOYEE per pay period for each subsequent violation. PLAINTIFF and the  
10 AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney’s fees and costs in  
11 connection with their claims for civil penalties pursuant to Labor Code Section 2699(g)(1).

12 46. To the extent that any of the conduct and violations alleged herein did not affect  
13 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected  
14 other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519;  
15 See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 [“PAGA allows  
16 an “aggrieved employee”—a person affected by at least one Labor Code violation committed by an  
17 employer—to pursue penalties for all the Labor Code violations committed by that employer.”],  
18 Emphasis added, reh'g denied (June 13, 2018).)

19 **PRAYER FOR RELIEF**

20 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT as follows:

21 (a) For reasonable attorney’s fees and costs of suit to the extent permitted by law, including  
22 pursuant to Labor Code § 2699, *et seq.*;

23 (b) For civil penalties to the extent permitted by law pursuant to the Labor Code under the  
24 Private Attorneys General Act; and

25 (c) For such other relief as the Court deems just and proper.

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Dated: April 15, 2021

Respectfully Submitted,  
ZAKAY LAW GROUP, APC


By:   
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Shani O. Zakay, Esq.  
Attorneys for PLAINTIFF

**DEMAND FOR JURY TRIAL**

PLAINTIFF demands a jury trial on all issues triable to a jury.

Dated: April 15, 2021

Respectfully Submitted,  
ZAKAY LAW GROUP, APC

By:   
\_\_\_\_\_  
Shani O. Zakay, Esq.  
Attorneys for PLAINTIFF