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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ORANGE**

PAUL KOOMAN, on behalf of the State of  
California, as a private attorney general,

Plaintiff,

vs.

S&D CARWASH MANAGEMENT, LLC, a  
Limited Liability Company; QUICK QUACK  
CAR WASH, INC., a Corporation; QUICK  
QUACK CARWASH MANAGEMENT, LLC,  
a Limited Liability Company; and DOES 1  
through 50, inclusive,

Defendants.

Case No. 30-2023-01327940-CU-OE-CXC

Judge Lon F. Hurwitz

CX-103

**REPRESENTATIVE ACTION**  
**COMPLAINT FOR:**

1. Civil Penalties Pursuant to Labor Code  
§ 2699, *et seq.* for violations of Labor  
Code §§ 201, 202, 203, 204 *et seq.*, 210,  
218, 221, 226(a), 226.7, 227.3, 246, 510,  
512, 558(a)(1)(2), 1194, 1197, 1197.1,  
1198, 2802, California Code of  
Regulations, Title 8, Section 11040,  
Subdivision 5(A)-(B), California Code of  
Regulations, Title 8, Section 11070(14)  
(Failure to Provide Seating), and the  
applicable Wage Order(s).

1 Plaintiff Paul Kooman (“PLAINTIFF”), on behalf of the people of the State of California  
2 and as an “aggrieved employee” acting as a private attorney general under the Labor Code  
3 Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on information  
4 and belief, except for his own acts and knowledge which are based on personal knowledge, the  
5 following:

## 6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against Defendants S&D Carwash Management,  
8 LLC, Quick Quack Car Wash, Inc., and Quick Quack Carwash Management, LLC (referred  
9 to as “DEFENDANT”) seeking only to recover PAGA civil penalties for himself, and on behalf  
10 of all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF  
11 does **not seek to recover anything other than penalties as permitted by California Labor**  
12 **Code § 2699.** To the extent that statutory violations are mentioned for wage violations,  
13 PLAINTIFF does not seek underlying general and/or special damages for those violations, but  
14 simply the civil penalties permitted by California Labor Code § 2699.

15 2. California has enacted the PAGA to permit an individual to bring an action on  
16 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole  
17 nature of this action.

18 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for  
19 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that  
20 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this  
21 complaint should be construed as attempting to obtain any relief that would not be available in  
22 a PAGA-only action.

## 23 **THE PARTIES**

24 4. S&D Carwash Management, LLC is a limited liability company that at all relevant  
25 times mentioned herein conducted and continues to conduct substantial business in the state of  
26 California.

27 5. Quick Quack Car Wash, Inc. is a corporation that at all relevant times mentioned  
28

1 herein conducted and continues to conduct substantial business in the state of California.

2 6. Quick Quack Carwash Management, LLC is a limited liability company that at  
3 all relevant times mentioned herein conducted and continues to conduct substantial business in  
4 the state of California.

5 7. PLAINTIFF alleges there has existed a unity of interest between S&D Carwash  
6 Management, LLC, Quick Quack Car Wash, Inc., and Quick Quack Carwash Management,  
7 LLC as evidenced by pay stubs, California Secretary of State registered business information,  
8 and the companies PLAINTIFF worked for, such that any individuality and separateness  
9 between the entities has ceased and both defendants are referred to herein as (“DEFENDANT”).

10 8. DEFENDANT owns and operates car washes in California.

11 9. PLAINTIFF was employed by DEFENDANT in California from October of 2019  
12 to September of 2022 and was at all times classified by DEFENDANT as a non-exempt  
13 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and  
14 payment of minimum and overtime wages due for all time worked.

15 10. PLAINTIFF, and such persons that may be added from time to time who satisfy  
16 the requirements and exhaust the administrative procedures under the Private Attorney General  
17 Act, brings this Representative Action on behalf of the State of California with respect to  
18 himself and all individuals who are or previously were employed by S&D Carwash  
19 Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash  
20 Management, LLC in California, including any employees staffed with S&D Carwash  
21 Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash  
22 Management, LLC by a third party, and classified as non-exempt employees (“AGGRIEVED  
23 EMPLOYEES”) during the time period of January 17, 2022 until a date as determined by the  
24 Court (the "PAGA PERIOD").

25 11. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES  
26 presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this  
27 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for  
28

1 DEFENDANT's violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218,  
2 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,  
3 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California  
4 Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and the  
5 applicable Wage Order(s). Based upon the foregoing, PLAINTIFF and all AGGRIEVED  
6 EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

7 12. The true names and capacities, whether individual, corporate, subsidiary,  
8 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are  
9 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious  
10 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this  
11 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when  
12 they are ascertained. PLAINTIFF is informed and believes, and based upon that information  
13 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through  
14 50, inclusive, are responsible in some manner for one or more of the events and happenings  
15 that proximately caused the injuries and damages hereinafter alleged.

16 13. The agents, servants and/or employees of the Defendants and each of them  
17 acting on behalf of the Defendants acted within the course and scope of his, her or its  
18 authority as the agent, servant and/or employee of the Defendants, and personally  
19 participated in the conduct alleged herein on behalf of the Defendants with respect to the  
20 conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to  
21 the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and  
22 all the AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the  
23 conduct of the Defendants' agents, servants and/or employees.

### 24 25 **THE CONDUCT**

26 14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT  
27 was required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time  
28 worked, meaning the time during which an employee is subject to the control of an

1 employer, including all the time the employee is suffered or permitted to work.  
2 DEFENDANT requires PLAINTIFF and the AGGRIEVED EMPLOYEES to work without  
3 paying them for all the time they are under DEFENDANT's control. Among other things,  
4 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to  
5 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by  
6 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal  
7 break. DEFENDANT, as a matter of established company policy and procedure,  
8 administers a uniform practice of rounding the actual time worked and recorded by  
9 PLAINTIFF and the AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT,  
10 so that during the course of their employment, PLAINTIFF and the AGGRIEVED  
11 EMPLOYEES are paid less than they would have been paid had they been paid for actual  
12 recorded time rather than "rounded" time. Additionally, DEFENDANT engages in the  
13 practice of requiring PLAINTIFF and the AGGRIEVED EMPLOYEES to perform work off  
14 the clock in that DEFENDANT, as a condition of employment, required these employees to  
15 submit to mandatory temperature checks and symptom questionnaires for COVID-19  
16 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a  
17 result, PLAINTIFF and the AGGRIEVED EMPLOYEES forfeit minimum wage, overtime  
18 wage compensation, and off-duty meal breaks by working without their time being correctly  
19 recorded and without compensation at the applicable rates. DEFENDANT's policy and  
20 practice not to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all time worked, is  
21 evidenced by DEFENDANT's business records.

22       15. State law provides that employees must be paid overtime and meal and rest  
23 break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and the  
24 AGGRIEVED EMPLOYEES are compensated at an hourly rate plus incentive pay that is  
25 tied to specific elements of an employee's performance.

26       16. The second component of PLAINTIFF's and the AGGRIEVED  
27 EMPLOYEES' compensation is DEFENDANT's non-discretionary incentive program that  
28 paid PLAINTIFF and the AGGRIEVED EMPLOYEES incentive wages based on their

1 performance for DEFENDANT. The non-discretionary incentive program provided all  
2 employees paid on an hourly basis with incentive compensation when the employees met the  
3 various performance goals set by DEFENDANT. However, when calculating the regular  
4 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and  
5 the AGGRIEVED EMPLOYEES, DEFENDANT failed to include the incentive  
6 compensation as part of the employees' "regular rate of pay" for purposes of calculating  
7 overtime pay and meal and rest break premium pay. Management and supervisors described  
8 the incentive program to potential and new employees as part of the compensation package.  
9 As a matter of law, the incentive compensation received by PLAINTIFF and the  
10 AGGRIEVED EMPLOYEES must be included in the "regular rate of pay." The failure to  
11 do so has resulted in a underpayment of overtime compensation and meal and rest break  
12 premiums to PLAINTIFF and the AGGRIEVED EMPLOYEES by DEFENDANT.

13 17. As a result of their rigorous work schedules, PLAINTIFF and the  
14 AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute off  
15 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF  
16 and the AGGRIEVED EMPLOYEES were required from time to time to perform work as  
17 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving  
18 a meal break. Further, DEFENDANT from time to time fails to provide PLAINTIFF and  
19 AGGRIEVED EMPLOYEES with a second off-duty meal period for some workdays in  
20 which these employees were required by DEFENDANT to work ten (10) hours of work.  
21 DEFENDANT also engaged in the practice of rounding the meal period times to avoid  
22 paying penalties to PLAINTIFF and the AGGRIEVED EMPLOYEES. PLAINTIFF and the  
23 AGGRIEVED EMPLOYEES therefore forfeit meal breaks without additional compensation  
24 and in accordance with DEFENDANT's corporate policy and practice.

25 18. During the PAGA PERIOD, PLAINTIFF and the AGGRIEVED  
26 EMPLOYEES were also required from time to time to work in excess of four (4) hours  
27 without being provided ten (10) minute rest periods. Further, these employees were denied  
28 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2)

1 to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes  
2 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
3 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)  
4 hours or more from time to time. PLAINTIFF and the AGGRIEVED EMPLOYEES were  
5 also not provided with one hour wages in lieu thereof. Additionally, the applicable  
6 California Wage Order requires employers to provide employees with off-duty rest periods,  
7 which the California Supreme Court defined as time during which an employee is relieved  
8 from all work related duties and free from employer control. In so doing, the Court held that  
9 the requirement under California law that employers authorize and permit all employees to  
10 take rest period means that employers must relieve employees of all duties and relinquish  
11 control over how employees spend their time which includes control over the locations  
12 where employees may take their rest period. Employers cannot impose controls that prohibit  
13 an employee from taking a brief walk - five minutes out, five minutes back. Here,  
14 DEFENDANT's policy restricted PLAINTIFF and the AGGRIEVED EMPLOYEES from  
15 unconstrained walks and is unlawful based on DEFENDANT's rule which states  
16 PLAINTIFF and the AGGRIEVED EMPLOYEES cannot leave the work premises during  
17 their rest period.

18 19. During the PAGA PERIOD, DEFENDANT fails to accurately record and pay  
19 PLAINTIFF and the AGGRIEVED EMPLOYEES for the actual amount of time these  
20 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,  
21 DEFENDANT was required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for  
22 all time worked, meaning the time during which an employee was subject to the control of  
23 an employer, including all the time the employee was permitted or suffered to permit this  
24 work. DEFENDANT required these employees to work off the clock without paying them  
25 for all the time they were under DEFENDANT's control. As such, DEFENDANT knew or  
26 should have known that PLAINTIFF and the AGGRIEVED EMPLOYEES were under  
27 compensated for all time worked. As a result, PLAINTIFF and the AGGRIEVED  
28 EMPLOYEES forfeited time worked by working without their time being accurately

1 recorded and without compensation at the applicable minimum wage and overtime wage  
2 rates. To the extent that the time worked off the clock does not qualify for overtime  
3 premium payment, DEFENDANT fails to pay minimum wages for the time worked off-the-  
4 clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

5 20. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
6 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to  
7 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226  
8 provides that every employer shall furnish each of his or her employees with an accurate  
9 itemized wage statement in writing showing, among other things, gross wages earned and all  
10 applicable hourly rates in effect during the pay period and the corresponding amount of time  
11 worked at each hourly rate. PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on  
12 an hourly basis. As such, the wage statements should reflect all applicable hourly rates  
13 during the pay period and the total hours worked, and the applicable pay period in which the  
14 wages were earned pursuant to California Labor Code Section 226(a). The wage statements  
15 DEFENDANT provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to  
16 identify such information. More specifically, the wage statements failed to identify the  
17 accurate total hours worked each pay period. When the hours shown on the wage statements  
18 were added up, they did not equal the actual total hours worked during the pay period in  
19 violation of Cal. Lab. Code Section 226(a)(2). DEFENDANT also violated Cal. Lab. Code  
20 Section 226(a)(8) by failing to correctly list the legal entity that employed PLAINTIFF and  
21 the other AGGRIEVED EMPLOYEES. Aside, from the violations listed above in this  
22 paragraph, DEFENDANT fails to issue to PLAINTIFF an itemized wage statement that lists  
23 all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT  
24 from time to time provided PLAINTIFF and the AGGRIEVED EMPLOYEES with wage  
25 statements which violated Cal. Lab. Code § 226.

26 21. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be  
27 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if  
28



1 the wages are paid not more than seven (7) calendar days following the close of the payroll  
2 period. Cal. Lab. Code § 210 provides:

3 in [I]n addition to, and entirely independent and apart from, any other penalty provided  
4 this article, every person who fails to pay the wages of each employee as provided in  
5 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial  
6 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For  
each subsequent violation, or any willful or intentional violation, two hundred dollars  
(\$200) for each failure to pay each employee, plus 25 percent of the amount  
unlawfully withheld.

7 22. DEFENDANT from time to time fails to pay PLAINTIFF and the  
8 AGGRIEVED EMPLOYEES within seven (7) days of the close of the payroll period in  
9 accordance with Cal. Lab. Code § 204(d), including but not limited to for the “Hourly”  
10 regular wage payments.

11 23. DEFENDANT underpays sick pay wages to PLAINTIFF and the  
12 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay in  
13 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt  
14 employees earn non-discretionary remuneration, including, but not limited to, incentives,  
15 shift differential pay, and bonuses. Rather than pay sick pay at the regular rate of pay,  
16 DEFENDANT underpays sick pay to PLAINTIFF and the AGGRIEVED EMPLOYEES at  
17 their base rates of pay.

18 24. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt  
19 employees be calculated by dividing the employee’s total wages, not including overtime  
20 premium pay, by the employee’s total hours worked in the full pay periods of the prior 90  
21 days of employment.

22 25. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay  
23 at the regular rate of pay. PLAINTIFF and the AGGRIEVED EMPLOYEES routinely  
24 earned non-discretionary incentive wages which increased their regular rate of pay.  
25 However, when sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and  
26 the AGGRIEVED EMPLOYEES, as opposed to the correct, higher regular rate of pay, as  
27 required under Cal. Lab. Code Section 246.  
28

1           26.     As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF  
2 and the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time  
3 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and  
4 believes and based thereon alleges that such failure to pay sick pay at regular rate was  
5 willful, such that the AGGRIEVED EMPLOYEES whose employment has separated are  
6 entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

7           27.     Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer  
8 to collect or receive from an employee any part of wages theretofore paid by said employer  
9 to said employee." DEFENDANT fails to pay all compensation due to PLAINTIFF and the  
10 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to  
11 PLAINTIFF and the AGGRIEVED EMPLOYEES, fails to disclose all aspects of the  
12 deductions from compensation payable to PLAINTIFF and the AGGRIEVED  
13 EMPLOYEES, and thereby fails to pay these employees all wages due at each applicable  
14 pay period and upon termination.

15           28.     DEFENDANT intentionally and knowingly failed to reimburse and indemnify  
16 PLAINTIFF and the AGGRIEVED EMPLOYEES for required business expenses incurred  
17 by the PLAINTIFF and the AGGRIEVED EMPLOYEES in direct consequence of  
18 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section  
19 2802, employers are required to indemnify employees for all expenses incurred in the course  
20 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer  
21 shall indemnify his or her employee for all necessary expenditures or losses incurred by the  
22 employee in direct consequence of the discharge of his or her duties, or of his or her  
23 obedience to the directions of the employer, even though unlawful, unless the employee, at  
24 the time of obeying the directions, believed them to be unlawful."

25           29.     In the course of their employment PLAINTIFF and the AGGRIEVED  
26 EMPLOYEES as a business expense, were required by DEFENDANT to use their own  
27 personal cellular phones as a result of and in furtherance of their job duties as employees for  
28 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost

1 associated with the use of their personal cellular phones for DEFENDANT's benefit.  
2 Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were required by  
3 DEFENDANT to use their personal cellular phones to perform work functions for  
4 DEFENDANT. As a result, in the course of their employment with DEFENDANT,  
5 PLAINTIFF and the AGGRIEVED EMPLOYEES incurred unreimbursed business expenses  
6 which included, but were not limited to, costs related to the use of their personal cellular  
7 phones all on behalf of and for the benefit of DEFENDANT.

8 30. In violation of the applicable sections of the California Labor Code and the  
9 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,  
10 DEFENDANT as a matter of company policy, practice and procedure, intentionally,  
11 knowingly and systematically failed to provide PLAINTIFF and the other AGGRIEVED  
12 EMPLOYEES suitable seating when the nature of these employees' work reasonably  
13 permitted sitting.

14 31. DEFENDANT knew or should have known that PLAINTIFF and other  
15 AGGRIEVED EMPLOYEES were entitled to suitable seating and/or were entitled to sit  
16 when it did not interfere with the performance of their duties, and that DEFENDANT did  
17 not provide suitable seating and/or did not allow them to sit when it did not interfere with  
18 the performance of their duties.

19 32. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED  
20 EMPLOYEES, DEFENDANT violated California Labor Code Section 1198 and Wage  
21 Order 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties  
22 on behalf of PLAINTIFF and other AGGRIEVED EMPLOYEES as provided herein.  
23 Providing suitable seating is the DEFENDANT's burden. As a result of DEFENDANT's  
24 intentional disregard of the obligation to meet this burden, DEFENDANT violated the  
25 California Labor Code and regulations promulgated thereunder as herein alleged.

26 33. The employment of PLAINTIFF and some AGGRIEVED EMPLOYEES has  
27 terminated and DEFENDANT has not tendered payment of all wages owed as required by  
28 law. Additionally, at all times during the term of PLAINTIFF's employment with

1 DEFENDANT, PLAINTIFF and other AGGRIEVED EMPLOYEES earned and accrued  
2 vested vacation and holiday time on the date of their termination pursuant to  
3 DEFENDANT's uniform vacation policies and applicable California law. The amount of  
4 vacation pay PLAINTIFF and the other AGGRIEVED EMPLOYEES earned and  
5 accumulated is evidenced by DEFENDANT's business records. Additionally,  
6 DEFENDANT also underpaid accrued vested vacation wages to PLAINTIFF and other  
7 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay and  
8 more specifically the final rate of pay that included all non-discretionary incentive  
9 compensation. Rather than pay vacation wages at the regular rate of pay, DEFENDANT  
10 underpaid vacation wages to PLAINTIFF and other AGGRIEVED EMPLOYEES at their  
11 base rates of pay, instead of including all of PLAINTIFF's and other AGGRIEVED  
12 EMPLOYEES' non-discretionary incentive compensation into the vacation wage payment  
13 calculations. DEFENDANT failed to specify in DEFENDANT's written vacation policy the  
14 rate at which PLAINTIFF and other AGGRIEVED EMPLOYEES would be paid vacation  
15 upon leaving employment with DEFENDANT. As a result of DEFENDANT's unlawful  
16 practice, policy and procedure to deny paying the PLAINTIFF and other AGGRIEVED  
17 EMPLOYEES all of their vested vacation and holiday time, DEFENDANT failed to pay the  
18 PLAINTIFF and other AGGRIEVED EMPLOYEES all vested vacation time as wages due  
19 upon employment termination, in violation of the California Labor Code, Sections 201, 202,  
20 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties to PLAINTIFF  
21 and other AGGRIEVED EMPLOYEES at their base rates of pay, instead of including all of  
22 PLAINTIFF's and other AGGRIEVED EMPLOYEES' non-discretionary compensation into  
23 the waiting time penalty calculations. This failure by DEFENDANT is believed to be the  
24 result of DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for  
25 earned, accrued and vested vacation and holiday time, as well as the corresponding waiting  
26 time penalties that were paid. DEFENDANT perpetrated this unlawful, unfair and deceptive  
27 practice to the detriment of PLAINTIFF and other AGGRIEVED EMPLOYEES.  
28 DEFENDANT's uniform practice and policy of failing to pay the AGGRIEVED

1 EMPLOYEES for all vested vacation and holiday time accumulated at employment  
2 termination violated and continues to violate Section 227.3 of the California Labor Code.

3 34. All of the conduct and violations alleged herein occurred during the PAGA  
4 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect  
5 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations  
6 that affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.*  
7 2018 AJDAR 12157 (Certified for Publication 12/19/18).

8  
9 **JURISDICTION AND VENUE**

10 35. This Court has jurisdiction over this Action pursuant to California Code of  
11 Civil Procedure, Section 410.10.

12 36. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
13 Sections 395.5 and 393, because DEFENDANT operates in locations across California,  
14 employs AGGRIEVED EMPLOYEES across California, including in this County, and  
15 committed the wrongful conduct herein alleged in this County against AGGRIEVED  
16 EMPLOYEES.

17 **FIRST CAUSE OF ACTION**

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

19 **[Cal. Lab. Code §§ 2698, *et seq.*]**

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

21 37. PLAINTIFF realleges and incorporates by this reference, as though fully set  
22 forth herein, the prior paragraphs of this Complaint.

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

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

5 39. PLAINTIFF, and such persons that may be added from time to time who  
6 satisfy the requirements and exhaust the administrative procedures under the Private  
7 Attorney General Act, brings this Representative Action on behalf of the State of California  
8 with respect to himself and all individuals who are or previously were employed by S&D  
9 Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack  
10 Carwash Management, LLC in California, including any employees staffed with S&D  
11 Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack  
12 Carwash Management, LLC by a third party, and classified as non-exempt employees  
13 ("AGGRIEVED EMPLOYEES") during the time period of January 17, 2022 until a date as  
14 determined by the Court (the "PAGA PERIOD").

15 40. On January 17, 2023, PLAINTIFF gave written notice by electronic mail to the  
16 Labor and Workforce Development Agency (the "Agency") and by certified mail to the  
17 employer of the specific provisions of this code alleged to have been violated as required by  
18 Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this reference  
19 herein (*PAGA Notice only without draft complaint*). The statutory waiting period for  
20 PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to  
21 Section 2699.3, PLAINTIFF may now commence a representative civil action under PAGA  
22 pursuant to Section 2699 as the proxy of the State of California with respect to all  
23 AGGRIEVED EMPLOYEES as herein defined.

24 41. The policies, acts and practices heretofore described were and are an unlawful  
25 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the  
26 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly  
27 record and provide legally required meal and rest periods, (c) failed to pay minimum wages,  
28 (d) failed to pay overtime wages and sick pay wages, (e) failed to reimburse employees for

1 required expenses, (f) failed to provide wages when due, and (g) failed to provide suitable  
2 seating, all in violation of the applicable Labor Code sections listed in Labor Code §§ 201,  
3 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194,  
4 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040,  
5 Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure  
6 to Provide Seating), and the applicable Wage Order(s), and thereby gives rise to civil  
7 penalties as a result of such conduct.<sup>1</sup> PLAINTIFF hereby seeks recovery of only civil  
8 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the  
9 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF  
10 and the AGGRIEVED EMPLOYEES.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and  
13 severally, as follows:

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

16 A) Recovery of civil penalties as prescribed by the Labor Code Private  
17 Attorneys General Act of 2004; and,

18 B) An award of attorneys' fees and cost of suit, as allowable under the  
19 law, including, but not limited to, pursuant to Labor Code §2699.

20 Dated: May 22, 2023 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW  
21 LLP

22 By: /s/ Nicholas De Blouw  
23 Norman B. Blumenthal  
24 Kyle R. Nordrehaug  
25 Nicholas J. De Blouw  
26 *Attorneys for Plaintiff*

27 <sup>1</sup>Plaintiff specifically excludes and/or does not allege any claims under California Labor  
28 Code §558(a)(3).

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# EXHIBIT 1



**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

**2255 CALLE CLARA**

**LA JOLLA, CALIFORNIA 92037**

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WRITERS E-MAIL:

**Nick@bamlawca.com**

WRITERS EXT:

**1004**

January 17, 2023

CA2805

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Quick Quack Car Wash, Inc.  
Certified Mail #70222410000060826396  
John Kelleher  
1380 Lead Hill Blvd., Suite 206  
Roseville, CA 95661

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash Management, LLC in California, including any employees staffed with S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash Management, LLC by a third party, and classified as non-exempt employees during the time period of January 17, 2022 until a date as determined by the Court. Our offices represent Plaintiff Paul Kooman (“Plaintiff”) and other Aggrieved Employees in a lawsuit against S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash Management, LLC (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from October of 2019 to September of 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks (and paying for meal and rest break premiums at the correct regular rate), and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise

Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a) *et seq.* Plaintiff and Aggrieved Employees are paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provides to Plaintiff and other Aggrieved Employees fails to identify such information. More specifically, the wage statements fails to identify the accurate total hours worked each pay period. When the hours shown on the wage statements are added up, they do not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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WRITERS EXT:

**1004**

January 17, 2023  
CA2805

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Quick Quack Carwash Management, LLC  
Certified Mail #70222410000060826402  
CT Corporation System  
AMANDA GARCIA  
330 N. BRAND BLVD. Suite 700,  
GLENDALE, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash Management, LLC in California, including any employees staffed with S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash Management, LLC by a third party, and classified as non-exempt employees during the time period of January 17, 2022 until a date as determined by the Court. Our offices represent Plaintiff Paul Kooman (“Plaintiff”) and other Aggrieved Employees in a lawsuit against S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc. and/or Quick Quack Carwash Management, LLC (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from October of 2019 to September of 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks (and paying for meal and rest break premiums at the correct regular rate), and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for

work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a) *et seq.* Plaintiff and Aggrieved Employees are paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provides to Plaintiff and other Aggrieved Employees fails to identify such information. More specifically, the wage statements fails to identify the accurate total hours worked each pay period. When the hours shown on the wage statements are added up, they do not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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WRITERS EXT:  
1004

January 17, 2023  
CA2805

## VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency  
Online Filing

S&D Carwash Management, LLC  
Certified Mail #70222410000060826419  
AMANDA GARCIA  
330 N. BRAND BLVD. Suite 700,  
GLENDALE, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

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Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.