

1 Laura L. Ho (SBN 173179)
lho@gbdhlegal.com
2 Byron Goldstein (SBN 289306)
brgoldstein@gbdhlegal.com
3 GOLDSTEIN, BORGEN, DARDARIAN & HO
300 Lakeside Drive, Suite 1000
4 Oakland, CA 94612
Tel: (510) 763-9800
5 Fax: (510) 835-1417

6 David H. Browne (SBN 261345)
david@brownelaborlaw.com
7 Devin Coyle (SBN 267194)
dcoyle@workerscounsel.com
8 BROWNE LABOR LAW
475 Washington Blvd
9 Marina del Rey, CA 90292
Tel: (310) 421-4810
10 Fax: (310) 421-4833

11 Attorneys for Plaintiffs, Vilma Zenelaj and Greta Zenelaj

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SAN FRANCISCO**

15 VILMA ZENELAJ AND GRETA ZENELAJ,
in their representative capacity,

16 Plaintiff,

17 vs.

18 HOMEJOY, INC. CORPORATION (DBA
HOMEJOY) and DOES 1-20, inclusive

19 Defendants.

Case No.: **CGC-15-544599**
REPRESENTATIVE ACTION
COMPLAINT

Violation of the Private Attorneys General Act of
2004, California Labor Code § 2698 *et seq.*

Demand for Jury Trial

ENDORSED
FILED
San Francisco County Superior Court

MAR - 9 2015

CLERK OF THE COURT

BY: DENNIS TOYAMA
Deputy Clerk

1 Plaintiffs Vilma Zenelaj and Greta Zenelaj, in their representative capacity, allege as follows:

2 **INTRODUCTION**

3 1. Each Plaintiff worked as a "Cleaning Professional" for Homejoy, Inc. ("Homejoy").
4 Plaintiffs bring this action pursuant to the Private Attorneys General Act of 2004 ("PAGA"),
5 California Labor Code § 2698 *et seq.* on a representative basis. All current and former Homejoy
6 Cleaning Professionals are aggrieved employees.

7 2. The California Labor Code requires employers to provide to its employees, among
8 others things, itemized wage statements, meal and rest periods, minimum and overtime wages,
9 reimbursement of necessary expenses, and prompt payment of wages upon termination. Homejoy
10 failed to comply with California Labor Code requirements due to the erroneous, willful and intentional
11 classification of its Cleaning Professionals as independent contractors. Plaintiffs, in their
12 representative capacity, seek civil penalties on behalf of themselves and other aggrieved employees
13 pursuant to PAGA.

14 3. Homejoy has had a consistent policy and/or practice of: (1) misclassifying Cleaning
15 Professionals as independent contractors instead of properly classifying them as employees; (2)
16 permitting, encouraging, and/or requiring Cleaning Professionals to work in excess of eight hours per
17 day and/or in excess of forty hours per week without paying them overtime compensation as required
18 by California state wage and hour laws; (3) failing to pay Cleaning Professionals a minimum wage for
19 all hours worked; (4) failing to provide Cleaning Professionals with adequate off-duty meal periods of
20 at least one half hour for every five hours worked; (5) failing to provide Cleaning Professionals with
21 adequate off-duty rest periods of at least ten minutes for every four hours or major fraction thereof
22 worked; (6) willfully failing to pay compensation owed to Cleaning Professionals whose employment
23 with Homejoy terminated; (7) requiring Cleaning Professionals to incur business-related expenses
24 failing to fully reimburse them for these costs; (8) knowingly and intentionally failing to furnish timely
25 itemized statements accurately showing the total hours worked by or hourly rate paid to Cleaning
26 Professionals; (9) unlawfully failing to keep accurate payroll records of total hours worked and wages
27 paid to Cleaning Professionals; and (10) failure to pay all wages twice during each calendar month on
28 days designated in advance by the employer as the regular paydays.

1 and Workforce Development Agency (“LWDA”) and Homejoy. *See* Letter from David H. Browne to
2 Homejoy (November 12, 2014) attached hereto as Exhibit A.

3 11. The LWDA did not provide notice of its intention to investigate Homejoy’s alleged
4 violations within thirty-three (33) calendar days of the November 12, 2014 postmark date of the notice
5 sent by Plaintiffs. *See* Cal. Lab. Code § 2699.3(a)(2)(A).

6 12. Plaintiffs are informed and believe and thereon allege that Homejoy uniformly
7 misclassifies all of its cleaning professionals as independent contractors when they are, in fact,
8 employees.

9 13. Homejoy exerts significant control over its cleaning professionals. For example,
10 Homejoy cleaning professionals cannot determine the specific homes they clean, cannot negotiate their
11 pay, cannot determine number of cleaning hours based on cleanliness of the house, and cannot
12 subcontract their work. Homejoy cleaning professionals lack the opportunity to increase their profit on
13 the basis of their own skills, efforts, and/or business ideas. Homejoy cleaning professionals can be
14 terminated at will and placed on performance improvement plans. Homejoy fines Cleaning
15 Professionals who are late for a cleaning or who cancel a cleaning.

16 14. Homejoy failed to provide Plaintiffs and other aggrieved employees with itemized wage
17 statements, minimum and overtime wages, lawful meal or rest periods, and reimbursement for
18 necessary expenses. Homejoy also failed to keep accurate payroll records showing aggrieved
19 employees’ hours worked and wages paid.

20 15. Plaintiffs allege that Homejoy violated PAGA in the following ways: (1) permitting,
21 encouraging, and/or requiring Cleaning Professionals to work in excess of eight hours per day and/or
22 in excess of forty hours per week without paying them overtime compensation in violation of Wage
23 Order No. 5 and Labor Code §§ 510, 558, 1194 and 1198; (2) failing to pay Cleaning Professionals a
24 minimum wage for all hours worked in violation of Wage Order No. 5 and Labor Code §§ 1182.12,
25 1194, and 1197; (3) failing to provide Cleaning Professionals with adequate off-duty meal periods of at
26 least one half hour for every five hours worked in violation of Wage Order No. 5 and Labor Code
27 §§ 226.7, 512, and 558; (4) failing to provide Cleaning Professionals with adequate off-duty rest
28 periods of at least ten minutes for every four hours or major fraction thereof worked in violation of

1 Wage Order No. 5 and Labor Code §§ 226.7, 512, and 558; (5) willfully failing to pay compensation
2 owed) in a prompt and timely manner to Plaintiffs and other aggrieved employees whose employment
3 with Homejoy terminated in violation of Wage Order No. 5 and Labor Code §§ 201, 202, 203, 512,
4 and 558; (6) requiring Cleaning Professionals to incur business-related expenses but failing to fully
5 reimburse them for these costs in violation of Labor Code § 2802; (7) knowingly and intentionally
6 failing to furnish timely itemized statements accurately showing the total hours worked by or hourly
7 rate paid to Plaintiffs and aggrieved employees in violation of Labor Code §§ 226(a), 1174, and
8 1174.5; and (8) failure to pay all wages twice during each calendar month on days designated in
9 advance by the employer as the regular paydays in violation of Labor Code § 204.

10 FACTUAL BACKGROUND

11 16. Plaintiffs are informed and believe, and based thereon allege, that Homejoy has
12 operated and conducted business as an employer of home cleaning professionals in the state of
13 California.

14 17. Plaintiffs are informed and believe, and based thereon allege, that there is an application
15 process to become a cleaning professional. The application process includes an in-person interview and
16 a cleaning evaluation.

17 18. Plaintiffs are informed and believe, and based thereon allege, that Homejoy uses its
18 website, Homejoy.com and/or its online platform, to schedule home cleaning jobs.

19 19. Before assigning a job to each new cleaning professional, Homejoy instructs cleaning
20 professionals to choose a territory and to give their availability for each day of the week, including
21 windows of availability within each day. Homejoy assigns work based on the cleaning professionals'
22 inputs. Homejoy fines Cleaning Professionals who are late for or who cancel one of these jobs.

23 20. Each assignment lists the job start time, job duration, address, and number of bedrooms
24 and bathrooms. Homejoy provides notes from customers about what to pay special attention to, how to
25 enter the house, whether to bring supplies, where trash and parking are located, and whether the
26 customer has pets. Homejoy also provides cleaning professionals a checklist for a standard cleaning in
27 each job assignment communication.
28

1 21. Upon information and belief there is a checklist for each part of the house. For example,
2 the checklist for the kitchen mandates that sinks and faucets are cleaned, dishes are washed, that the
3 exterior and interior of the microwave is cleaned, countertops and backsplash are wiped, cabinet
4 exteriors are cleaned, floors mopped and/or vacuumed, furniture and visible surfaces are wiped,
5 baseboards are dusted, reachable vents are dusted, and that trash is emptied.

6 22. Plaintiffs are informed and believe, and based thereon allege, that cleaning
7 professionals are paid only for the time they spend in a home cleaning. Homejoy tells cleaning
8 professionals that in order to receive an increased hourly rate they need to receive high customer
9 ratings and do a sufficient volume of jobs. Upon information and belief, Homejoy imposes a minimum
10 number of jobs that cleaning professionals need to complete each week in order to remain on the
11 platform.

12 23. Plaintiffs are informed and believe, and based thereon allege, that Homejoy bars
13 cleaning professionals from accepting jobs from Customers unless the Customer purchases the
14 cleaning only from Homejoy.

15 24. Plaintiffs are informed and believe, and based thereon allege, that Homejoy exercises
16 extensive control over the manner and means by which cleaning professionals perform their jobs.
17 Examples of this control include, but are not limited to, Homejoy's ability to terminate cleaning
18 professionals at will, Homejoy's prohibition against cleaning professionals hiring other people to assist
19 in the cleaning jobs, Homejoy's control over the location of the cleaning job, and Homejoy's control of
20 the amount charged to the customer.

21 25. Plaintiffs are informed and believe, and based thereon allege, that Homejoy provides
22 training and instructions on how its cleaning professionals should complete their tasks, monitors and
23 tracks performance, and counsels of underperforming cleaning professionals to meet Homejoy's
24 expectations.

25 26. Plaintiffs are informed and believe, and based thereon allege, that Homejoy controls the
26 distribution of daily assignments to cleaning professionals, including choosing which part of their
27 territory the cleaning professional will work, how short or long the gaps between each job will be, the
28 start and end time of each job, how far the cleaning professional will need to commute between jobs,

1 including whether the professional will work within one city in their territory on a given day, or
2 multiple cities. Specifically, Homejoy decides whether a Cleaner who chooses Oakland and San
3 Francisco as part of their territory, whether the cleaner will stay in Oakland on a given day, stay in San
4 Francisco on a given day, or travel in between the two cities multiple times on a given day.

5 27. Cleaning professionals lack control over the specific homes they can clean. Cleaning
6 professionals cannot determine whether there are safety concerns in that home, factor in how dirty the
7 home is, and whether the client is likely to become a repeat customer.

8 28. In addition, cleaning professionals do not have discretion to pick and choose their
9 cleaning tasks or create their plan of action at the customer's home.

10 29. Plaintiffs are informed and believe, and based thereon allege, that Homejoy has the
11 exclusive control over the price and length of time for each cleaning job. Cleaning professional
12 compensation amounts and terms are not negotiable. The cleaning professionals can neither negotiate
13 the price nor the length of cleaning. When the length of cleaning is decided, the cleaning professionals
14 have no input. Also, Homejoy prevents the cleaning professionals from negotiating the length of the
15 cleaning time with the Customers.

16 30. Because the cleaning professionals can neither negotiate cleaning time nor have input
17 into the length of cleaning, Homejoy controls the quality of the cleaning job. For example, the more
18 time that a cleaning professional has to complete a cleaning job, the more likely the quality of the
19 cleaning job will increase.

20 31. Plaintiffs are informed and believe, and based thereon allege, that cleaning
21 professionals are an integral part of Homejoy's business of providing cleaning services to its
22 customers.

23 32. Plaintiffs are informed and believe, and based thereon allege, that the skills required of
24 cleaning professionals in rendering services to Homejoy are such that those services can be, and
25 generally are, performed by employees, rather than by specially skilled independent workers.

26 33. As a result of the control exercised by Homejoy over the work performed by Plaintiff
27 and the other cleaning professionals, an employer-employee relationship exists and has existed at all
28 times material to this action between Homejoy and each aggrieved employee.

1 34. Plaintiffs are informed and believe, and based thereon allege, that Homejoy uniformly,
2 willfully and intentionally misclassifies all of its cleaning professionals as independent contractors
3 when they are, in fact, employees. Homejoy requires Cleaning Professionals to sign an “Independent
4 Contractor Agreement.”

5 35. Homejoy retains the right to unilaterally terminate the cleaning professionals at any
6 time;

7 36. Plaintiff is informed and believes, and based thereon alleges, that the Independent
8 Contractor Agreement was drafted exclusively by Homejoy and/or its legal counsel.

9 37. Plaintiff is informed and believes, and based thereon alleges, that the Independent
10 Contractor Agreement purports to classify the cleaning professionals as independent contractors to
11 conceal the true employment relationship between Homejoy and its cleaning professionals.

12 38. The Independent Contractor Agreement provides, among other things, that: Homejoy
13 retains the right to unilaterally terminate the cleaning professionals at any time and with or without
14 cause.

15 39. Plaintiff is informed and believes, and based thereon alleges, that before every cleaning,
16 Homejoy sends an email to its cleaning professionals that tells the cleaner to, among other things:
17 arrive 5-10 minutes early to the job with all supplies; identify themselves as a Homejoy Cleaning
18 Professional; that cleaning time can only be extended by agreement with the customer and Homejoy;
19 leave a thank you note encouraging the customer to book them again through Homejoy; submit only
20 the time that they cleaned; and, that cancelling last minute or not showing up will result in your
21 account access being immediately suspended

22 40. Plaintiffs are informed and believe, and based thereon allege, that Homejoy illegally,
23 willfully and intentionally misclassified its cleaning professionals as independent contracts when they
24 were, in fact employees as defined by Wage Order 5-2001 §§ 2(E), 2(F), 2(H) and 3 and California
25 common law.

26 41. Plaintiffs are informed and believe, and based thereon allege, that cleaning
27 professionals regularly work beyond eight hours in a day or forty hours in a week in order to complete
28 their cleanings, including driving from one cleaning to another.

1 42. Plaintiffs are informed and believe, and based thereon allege, that Homejoy's cleaning
2 professionals spend part of their work time cleaning homes.

3 43. In addition, cleaning professionals spend time completing work tasks required by
4 Homejoy that include, but are not limited to preparing in advance for customer assignments,
5 communicating with customers via text and phone calls, communicating with Homejoy supervisors via
6 email, text and phone calls, and submitting completed assignment information to Homejoy.

7 44. Cleaning professionals also spend time traveling between the homes that they clean.

8 45. Cleaning professionals must attend an orientation.

9 46. Plaintiffs are informed and believe, and based thereon allege, that Homejoy
10 compensates cleaning professionals by the hour for the time they spend in the home cleaning. Homejoy
11 does not pay cleaning professionals any other form of compensation beyond this hourly rate for time
12 spent cleaning in the home. Cleaning professionals regularly work over eight hours per day and over
13 forty hours per week including time spent at the home cleaning, time spent driving or otherwise
14 commuting to and from each cleaning, and time spent completing other work tasks required by
15 Homejoy including logging onto the platform and making phone calls, texts, and sending emails before
16 and after cleanings.

17 47. Plaintiffs and aggrieved employees are, and at all relevant times were, covered by Wage
18 Order No. 5-2001 and 15-2001. Section 3 of the Wage Order, along with Labor Code § 510, required
19 employers to pay employees one-and-one-half times their normal hourly rate for hours worked in
20 excess of eight per day and in excess of forty per week, and at twice the normal hourly rate for hours
21 worked in excess of twelve per day and eight on the seventh day worked in a work week. However,
22 Plaintiffs are informed and believe, and based thereon allege, that Homejoy has had a policy and/or
23 practice of failing to compensate cleaning professionals for all overtime hours worked. As a result of
24 these violations, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 2698 *et*
25 *seq.*

26 48. Plaintiffs are informed and believe, and based thereon allege, that Homejoy does not
27 maintain a policy that compensates Homejoy cleaning professionals an amount equal to or greater than
28 the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1

1 and Industrial Welfare Commission Wage Order 5-2001 and 15-2001. For example, Homejoy does not
2 compensate its cleaning professionals for time spent driving or otherwise commuting between jobs.
3 Homejoy only pays its cleaning professionals for time spent at each job site. As a result of violations of
4 California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Order 5-2001
5 for failure to pay minimum wage, Homejoy is liable for civil penalties pursuant to California Labor
6 Code §§ 2698 *et seq.*

7 49. Plaintiffs are informed and believe, and based thereon allege, that Homejoy does not
8 provide cleaning professionals with a thirty minute, duty-free meal break. Homejoy has no policy of
9 providing cleaning professionals with a thirty minute, duty-free meal break within the first five work
10 hours in a work day or a second 30-minute, duty-free meal break after ten hours worked in a worked
11 day. Due to the volume of scheduled work assignments and the associated travel time, cleaning
12 professionals regularly either skip their lunches altogether, continue to work while eating their lunches,
13 or take their lunches only after they have worked more than five or ten hours in that workday. As a
14 result of these violations, Homejoy is liable for civil penalties pursuant to California Labor Code §§
15 2698 *et seq.*

16 50. Plaintiffs are informed and believe, and based thereon allege, that Homejoy does not
17 provide cleaning professionals with two ten minute, duty-free paid rest breaks during each workday.
18 Homejoy has no policy of providing cleaning professionals with a ten minute, duty-free rest break for
19 every four hours or major fraction thereof worked during a workday. Due to the volume of scheduled
20 work assignments and the associated travel time, cleaning professionals regularly do not receive their
21 statutorily required rest breaks. As a result of these violations, Homejoy is liable for civil penalties
22 pursuant to California Labor Code §§ 2698 *et seq.*

23 51. Plaintiffs are informed and believe, and based thereon allege, that Homejoy does not
24 properly compensate Homejoy cleaning professionals for hours worked in excess of eight in a day and
25 forty in a week, as well as for missed meal periods. Accordingly, Homejoy violated California Labor
26 Code § 204(a), which requires that employers pay “*all wages* [. . .] twice during each calendar month
27 on days designated in advance by the employer as the regular paydays” (emphasis added). As a result,
28 Homejoy is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

1 52. Homejoy has failed to keep payroll records showing total hours worked and wages paid
2 to employees. Under California Labor Code § 1174(d), employers must keep “payroll records showing
3 the hours worked daily by and the wages paid to . . . employees [. . .].” Because Homejoy did not keep
4 accurate time records reflecting hours worked for Homejoy cleaning professionals, it is liable for civil
5 penalties pursuant to California Labor Code § 2698 *et seq.*

6 53. Plaintiffs are informed and believe, and based thereon allege, that Homejoy does not
7 fully reimburse cleaning professionals for all reasonable and necessary business expenditures they
8 incurred while completing their job duties as required by Labor Code 2802. Cleaning professionals
9 regularly incur reasonable and necessary business expenditures in the course of completing their
10 duties, which include, but are not limited to, wear and tear on personal vehicles used to transport them
11 between cleaning jobs, fuel for those same personal vehicles, tolls, public transportation expenses,
12 parking personal car insurance coverage, purchasing a cellular phone, monthly cellular phone voice
13 and data plans, and cleaning supplies. Cleaning professionals necessarily and reasonably incurred these
14 expenditures, but Homejoy refused to fully reimburse cleaning professionals for these business costs.
15 As a result of these violations, Homejoy is liable for civil penalties pursuant to California Labor Code
16 §§ 2698 *et seq.*

17 54. Plaintiffs are informed and believe, and based thereon allege, that Homejoy has failed to
18 pay all compensation due and owing to Plaintiffs and all former cleaning professionals upon
19 separation, as required by Labor Code §§ 201 and 202. Plaintiffs further allege that this failure to pay
20 all compensation due was willfully done by Homejoy. As a result of these violations, Homejoy is liable
21 for civil penalties pursuant to California Labor Code §§ 2698 *et seq.*

22 55. Plaintiffs are informed and believe, and based thereon allege, that Homejoy has
23 knowingly and intentionally failed to furnish Plaintiffs and aggrieved employees with timely, itemized
24 wage statements accurately showing, among other required things, total hours worked or hourly rate
25 paid, as required by Labor Code § 226(a). As a result of these violations, Homejoy is liable for civil
26 penalties pursuant to California Labor Code §§ 2698 *et seq.*

FIRST CAUSE OF ACTION
VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT (“PAGA”)
(California Labor Code § 2698 *et seq.*)

56. Plaintiffs are “aggrieved employees” under PAGA, as they were employed by Homejoy during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, they seeks to recover on behalf of themselves and all other current and former aggrieved employees of Homejoy, the civil penalties provided by PAGA, plus reasonable attorney’s fees and costs.

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

58. Plaintiffs seek civil penalties pursuant to PAGA for violations of the following Labor Code provisions:

- a. failure to provide prompt payment of wages to cleaning professionals upon termination and resignation in violation of Labor Code §§ 201, 202, 203;
- b. failure to provide itemized wage statements to cleaning professional employees in violation of Labor Code §§ 226(a), 1174, and 1174.5;
- c. failure to provide meal and rest periods in violation of Wage Order No. 5 and 15 and Labor Code §§ 226.7, 512, and 558;
- d. failure to keep required payroll records in violation of Wage Order No. 5 and 15 and Labor Code §§ 1174 and 1174.5;
- e. failure to pay overtime wages in violation of Wage Order No. 5 and 15 and Labor Code §§ 510, 558, 1194 and 1198;
- f. failure to pay minimum wages in violation of Wage Order No. 5 and 15 and Labor Code §§ 1182.12, 1194, and 1197;
- g. failure to reimburse cleaning professional employees for all reasonably necessary expenditures and losses incurred by cleaning professional employees in direct consequence of the discharge of their duties, including but not limited to fuel, insurance, maintenance, parking, public transportation and toll costs,

1 cellular phone costs and cellular phone plans, and cleaning supplies in violation
2 of Labor Code § 2802;

3 h. failure to provide itemized wage statements to cleaning professionals in
4 violation of Labor Code §§ 226(a); and

5 i. failure to pay all wages twice during each calendar month on days designated in
6 advance by the employer as the regular paydays in violation of Labor Code
7 § 204.

8 59. With respect to violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil
9 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
10 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee
11 for each subsequent violation of Labor Code § 226(a).

12 60. With respect to violations of Labor Code §§ 510, 512, Labor Code § 558 imposes a civil
13 penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for
14 each underpaid employee for each pay period for which the employee was underpaid in addition to an
15 amount sufficient to recover underpaid wages, and one hundred dollars (\$100) for subsequent
16 violations for each underpaid employee for each pay period for which the employee was underpaid in
17 addition to an amount sufficient to recover underpaid wages. Moreover, Plaintiffs seeks civil penalties
18 in the amount of unpaid wages owed to aggrieved employees pursuant to Labor Code § 558(a)(3).

19 61. With respect to violations of Labor Code § 1174, Labor Code § 1174.5 imposes a civil
20 penalty of \$500.

21 62. Labor Code § 2699 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
22 pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) pay period,
23 per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil
24 penalty is not specifically provided, including Labor Code §§ 226.7, 226.8, 1174, 1182.12, 1194, 1197,
25 1198, and 2802.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs, individually and on behalf of the aggrieved employees, prays for
28 judgment against Defendants as follows:

1 A. An award of civil penalties pursuant to PAGA;

2 B. An award of reasonable attorneys' fees and costs pursuant to California Labor Code
3 § 2699(g) and/or other applicable law;

4 C. Pre-judgment and post-judgment interest as provided by law; and

5 D. Such other and further relief that the Court may deem just and proper.

6 Dated: March 9, 2015

Respectfully submitted,

7 GOLDSTEIN, BORGEN, DARDARIAN & HO

8 
9 _____
Byron Goldstein

10 Attorneys for Plaintiffs and aggrieved employees

EXHIBIT A

BROWNE LABOR LAW

PROFESSIONAL LAW CORPORATION

475 Washington Blvd, Marina del Rey, CA 90292
Phone: (310) 421-4810 • Fax: (310) 421-4833

November 12, 2014

Via Certified U.S. Mail

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, California 94102

Homejoy, Inc.
CT Corporation System
818 West Seventh Street, 2nd Floor
Los Angeles, CA 90017

Re: PAGA Notice Pursuant to California Labor Code § 2699

Dear Sir or Madam:

Please be advised that Vilma Zenelaj and Greta Zenelaj (collectively referred to as the "Plaintiffs") have retained Browne Labor Law, Professional Law Corporation to represent them and other aggrieved employees for wage and hour claims against their current employer, Homejoy, Inc. (hereinafter referred to as "Homejoy").

Homejoy is a company located in California that provides, *inter alia*, home cleaning services. In order to provide these services, Homejoy utilizes numerous "Homejoy Cleaning Professionals" including Plaintiffs. Homejoy misclassified Plaintiffs and continues to misclassify other Homejoy Cleaning Professionals as independent contractors. In reality, Plaintiffs and other Homejoy Cleaning Professionals are employees.

Homejoy has violated, and/or has caused to be violated, several Labor Code provisions, and is therefore liable for civil penalties under California Labor Code § 2698 *et seq.* We request that your agency investigate the claims alleged against it below. This will letter will serve as notice of these allegations pursuant to the Private Attorney Generals Act of 2004 ("PAGA"). Cal. Lab. Code § 2699.3.

Unlawful Failure to Pay Overtime

Homejoy has failed to maintain a policy that compensates Homejoy Cleaning Professionals for all hours worked, including overtime. Specifically, Homejoy only pays

Homejoy Cleaning Professionals for the majority of time that they spend at a home cleaning. Homejoy does not pay Homejoy Cleaning Professionals for time spent driving between jobs, or for time spent completing other Homejoy tasks. Plaintiffs and other Homejoy Cleaning Professionals routinely work over eight (8) hours per day and/or forty (40) hours per week but are not paid one and one-half their regular rate of pay for overtime work.

As a result of violations of California Labor Code §§ 510, 1194, and Industrial Welfare Commission Wage Orders 5-2001 and 15-2001 for failure to pay overtime, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Unpaid Balance of Full Amount of Overtime Compensation

As described above, Homejoy has required Homejoy Cleaning Professionals to work hours in excess of eight hours in a day and forty in a week, but has not paid these employees overtime compensation. As a result, Homejoy Cleaning Professionals have been denied “the unpaid balance of the full amount of this . . . overtime compensation” as required by California Labor Code § 1194, and Homejoy is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Minimum Wage

Homejoy has failed to maintain a policy that compensates Homejoy Cleaning Professionals an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Orders 5-2001 and 15-2001. 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. Homejoy did not compensate Homejoy Cleaning Professionals for time spent driving between jobs, among other Homejoy tasks. Homejoy only paid its professionals for time spent at each job site. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Orders 5-2001 and 15-2001 for failure to pay minimum wage, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

Homejoy has failed to maintain a policy that provides Homejoy Cleaning Professionals with off-duty meal periods as required by California law. Plaintiffs and similarly situated Homejoy Cleaning Professionals regularly worked in excess of five (5) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and Wage Orders 5-2001 and 15-2001. Homejoy failed to pay Homejoy Cleaning Professionals the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods. As a result of violations of California Labor Code §§ 226.7 and 512 and Wage Orders 5-2001 and 15-2001, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

Homejoy has failed to maintain a policy that provides Homejoy Cleaning Professionals with off-duty rest periods as required by California law. Plaintiffs and similarly situated Homejoy Cleaning Professionals regularly worked in excess of four hours or major fraction thereof during work days without being provided at least a ten minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and Orders 5-2001 and 15-2001. Homejoy failed to pay Homejoy Cleaning Professionals the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods. As a result of violations of California Labor Code §§ 226.7, 512 and Wage Orders 5-2001 and 15-2001, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Reimburse Expenses

Homejoy has failed to indemnify Plaintiffs for all necessary expenditures or losses incurred by Plaintiffs. Homejoy did not reimburse Plaintiffs for cleaning supplies, mileage between job sites, parking at job sites, vehicle wear and tear, uniform maintenance, cell phone usage, and vehicle insurance. California Labor Code § 2802 requires the employer to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge their duties. As a result of violations of California Labor Code § 2802, Homejoy is liable for civil penalties pursuant to California Labor Code Labor Code §§ 558, 2802 and 2698 *et seq.*

Unlawful Failure to Furnish Wage Statements

Homejoy has violated California Labor Code § 226(a) by willfully failing to furnish its Homejoy Cleaning Professionals with accurate, itemized wage statements showing the actual hours worked on a daily basis. When Homejoy compensated Plaintiffs and other similarly situated individuals it only provided gross pay data to Plaintiffs and other similarly situated individuals.

As a result of violations of California Labor Code § 226(a), Homejoy is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Unlawful Failure to Keep Accurate Payroll Records of Daily Hours Worked

Homejoy has failed to keep payroll records showing total hours worked and wages paid to employees. Under California Labor Code § 1174(d), employers must keep “payroll records showing the hours worked daily by and the wages paid to . . . employees [. . .].” Because Homejoy did not keep accurate time records reflecting hours worked for Homejoy Cleaning Professionals, it is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.* To the extent that Homejoy’s failure to keep accurate payroll records was willful, it is liable for civil penalties under California Labor Code § 1174.5.

Unlawful Violation of California Labor Code § 1199

Under California Labor Code §§ 1199(a) and (c) and 2699.5 *et seq.*, an employer who “requires or causes any 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. As described above, Homejoy has required Homejoy Cleaning Professionals to work hours in excess of eight (8)

in a day and forty (40) in a week (thereby violating § 1199(a)) and has violated numerous provisions of the Labor Code pertaining to employee wages and hours (thereby violating § 1199(b)). Accordingly, Homejoy is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay All Wages Twice Each Calendar Month

Upon information and belief, Homejoy failed to properly compensate Homejoy Cleaning Professionals for hours worked in excess of eight (8) in a day and forty (40) in a week, as well as for missed meal periods. Accordingly, Homejoy violated California Labor Code § 204(a), which requires that employers pay “*all wages* [. . .] twice during each calendar month on days designated in advance by the employer as the regular paydays” (emphasis added). As a result, Homejoy is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Failure to Enforce Maximum Hours of Work

Additionally, because Homejoy failed to enforce the maximum hours of work fixed by the Industrial Welfare Commission with respect to Homejoy Cleaning Professionals as required by California Labor Code § 1198, Homejoy is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Wages Due Upon Termination

Homejoy has violated California Labor Code §§ 201 and 202 by willfully failing to pay all compensation due and owing to all former Homejoy Cleaning Professionals at the time employment was terminated. Homejoy willfully failed to pay Homejoy Cleaning Professionals who are no longer employed by it all compensation due upon termination of employment as required under California Labor Code §§ 201 and 202. Pursuant to §§ 203 and 256 of the Labor Code, Plaintiffs and similarly situated individuals are now also entitled to recover up to thirty (30) days of wages due to Defendant’s “willful” failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code.

Additionally, because Homejoy violated California Labor Code §§ 201, 201 and 203 of the Labor Code, Homejoy is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Conclusion

Homejoy has violated or has caused to be violated a number of California wage and hour laws. Plaintiff requests the agency investigate the above allegations and provide notice of the allegations pursuant to PAGA’s provisions. Alternatively, Plaintiff requests the agency inform her if it does not intend to investigate these violations so that she may amend her lawsuit to include the violations discussed in this letter.

Sincerely,



David Browne

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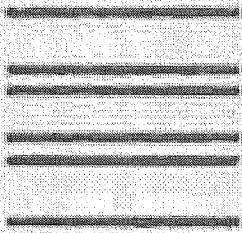
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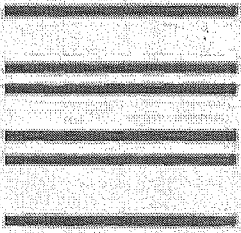
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