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8 TIMMERMAN, and JOSHUA ALBERT

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN FRANCISCO**

12  
13 JACOB RIMLER, GIOVANNI JONES,  
14 DORA LEE, KELLYN TIMMERMAN, and  
15 JOSHUA ALBERT, on behalf of themselves  
and others similarly situated and in their  
16 capacities as Private Attorney General  
Representatives,

17  
18 Plaintiffs,

19 v.

20 POSTMATES INC.,

21 Defendant.  
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Case No. CGC-18-567868

**SECOND AMENDED CLASS ACTION  
AND PAGA COMPLAINT**

1. Unlawful/Unfair Business Practices,  
(Cal. Bus. & Prof. Code § 17200)
2. Failure to Reimburse for Business  
Expenses (Cal. Lab. Code § 2802)
3. Unpaid Wages (Cal. Lab. Code §§ 201-  
204)
4. Minimum Wage (Cal. Lab. Code §§  
1194, 1197)
5. Overtime (Cal. Lab. Code §§ 510,  
1194)
6. Meal & Rest Breaks (Cal. Lab. Code  
§226.7)
7. Wage Statements (Cal. Lab. Code §  
226)
8. Failure to Provide Sick Leave (Cal.  
Lab. Code §§245-249)
9. Failure to Pay Reporting Time (Wage  
Order 9)

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- 10. Failure to Post Pay Days (Cal. Lab. Code §207)
- 11. Untrue/Misleading Advertising (Cal. Bus. & Prof. Code §17500)
- 12. FLSA Minimum Wage (29 U.S.C. § 201 et seq.)
- 13. FLSA Overtime (29 U.S.C. § 201 et seq.)
- 14. Private Attorneys General Act, Cal. Lab. Code §§ 2698, *et seq.*)

1 **I. INTRODUCTION**

2 1. This case is brought on behalf of the state of California and other similarly  
3 situated aggrieved individuals who have worked for Postmates Inc. (“Postmates”) as couriers in  
4 California. Postmates provides on-demand delivery to customers at their homes and businesses  
5 through its mobile phone application and website. Postmates is based in San Francisco,  
6 California, but it does business across the United States and extensively throughout California.

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8 2. As described further below, Plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee,  
9 Kellyn Timmerman, and Joshua Albert bring this action on their own behalf, and on behalf of  
10 other similarly situated Postmates couriers, for violation of the California Unfair Competition  
11 Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”) and § 17500, based upon Postmates’  
12 willful misclassification of its couriers, in violation of Cal. Labor Code § 226.8. Because of  
13 couriers’ misclassification as independent contractors, Postmates has deprived couriers many  
14 protections and benefits of employment under state and local law, including by unlawfully  
15 required couriers to pay business expenses (including expenses to own or lease a vehicle and  
16 maintain and fuel it, as well as phone/data expenses) in violation of Cal. Lab. Code § 2802.  
17 Postmates has also failed to pay required minimum wage for all hours worked in violation of Cal.  
18 Lab. Code §§ 1194, 1197, and has failed to pay appropriate overtime premiums for hours worked  
19 in excess of eight per day or forty per week in violation of Cal. Lab. Code §§ 1194, 1198, 510  
20 and 554. Additionally, Postmates has breached its contractual obligation to compensate couriers  
21 for the time they spend waiting for delivery goods to be ready, which also constitutes a failure to  
22 pay earned wages in violation of Cal. Lab. Code § 204. Plaintiffs bring their claims pursuant to  
23 the Private Attorneys General Act (“PAGA”), Cal. Lab. Code § 2699, *et seq.*, on behalf of the  
24 state of California and all other similarly situated aggrieved employees who have been  
25 misclassified by Postmates in California since June 3, 2017.





1 **IV. STATEMENT OF FACTS**

2 12. Postmates is a San Francisco-based delivery service, which engages couriers  
3 across the state of California to deliver food and other merchandise to its customers at their  
4 homes and businesses.

5 13. Postmates offers customers the ability to order food and other items via a mobile  
6 phone application or via its website, which Postmates couriers then deliver to customers.  
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8 14. Postmates holds itself out to the public as a delivery service. Its website  
9 homepage advertises that it offers customers “Anything, anywhere, anytime.” Postmates’  
10 website also promotes its “Postmates Unlimited” service where customers can subscribe and  
11 receive unlimited free deliveries, touting “Pay once, free delivery all year.” Its website also  
12 boasts that “Postmates is transforming the way goods move around cities by enabling anyone to  
13 have anything delivered on-demand.”

14 15. Plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, and  
15 Joshua Albert have driven for Postmates at various times, including over the last year, and some  
16 continue to drive for Postmates.

17 16. Postmates classifies its couriers like Plaintiffs as “independent contractors,” but  
18 under California law, they should be classified as employees.

19 17. Postmates couriers perform services within Postmates’s usual course of business  
20 as a delivery service. The couriers’ services are fully integrated into Postmates’ business.  
21 Without couriers to perform deliveries, Postmates would not exist.

22 18. Postmates couriers are not typically engaged in their own delivery business. When  
23 delivering items for Postmates customers, they wear the “hat” of Postmates.

24 19. In addition, Postmates maintains the right of control over the couriers’  
25 performance of their jobs and exercises detailed control over them.  
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1           30.     The named plaintiffs' claims are typical of the claims of the class, and the named  
2 plaintiffs have the same interests as the other members of the class.

3           31.     The named plaintiffs will fairly and adequately represent and protect the interests  
4 of the class. The named plaintiffs have retained able counsel experienced in class action  
5 litigation. The interests of the named plaintiffs are coincident with, and not antagonistic to, the  
6 interests of the other class members.

7           32.     The questions of law and fact common to the members of the class predominate  
8 over any questions affecting only individual members, including legal and factual issues relating  
9 to liability and damages.

10          33.     A class action is superior to other available methods for the fair and efficient  
11 adjudication of this controversy because joinder of all class members is impractical. Moreover,  
12 since the damages suffered by individual members of the class may be relatively small, the  
13 expense and burden of individual litigation makes it practically impossible for the members of  
14 the class individually to redress the wrongs done to them. The class is readily definable as  
15 Postmates knows which couriers have signed up to use the Postmates platform as couriers since  
16 June 3, 2017. Further, prosecution of this action as a class action will eliminate the possibility of  
17 repetitive litigation. There will be no difficulty in the management of this action as a class action.

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19 **VI.   PAGA REPRESENTATIVE ACTION ALLEGATIONS**

20          34.     Plaintiffs allege that Postmates violated the Labor Code by willfully  
21 misclassifying its couriers in violation of Cal. Labor Code § 226.8. Plaintiffs also allege that  
22 Postmates has violated PAGA by failing to reimburse courier employees for all reasonably  
23 necessary expenditures incurred by couriers in discharging their duties, including fuel, insurance,  
24 and maintenance costs in violation of Cal. Lab. Code § 2802. Plaintiffs also allege that Postmates  
25 has violated Cal. Lab. Code §§ 1197 and 1194 by failing to ensure that its couriers receive the  
26 applicable state minimum wage for all hours worked and by impermissibly counting customers'  
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1 tips toward their minimum wage obligations. Additionally, Postmates has violated Cal. Lab.  
2 Code §§ 1194, 1198, 510, and 554 by failing to pay the appropriate overtime premium for all  
3 overtime hours worked beyond forty per week or eight hours per day. Plaintiffs further allege  
4 that Postmates violated Cal. Lab. Code § 204 by failing to pay its couriers for the entirety of their  
5 waiting time.

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7 35. On May 1, 2018, Plaintiff Rimler gave written notice of Postmates’s violations to  
8 the California Labor Code as alleged in this complaint to the Labor and Workforce Development  
9 Agency (“LWDA”) via online filing and to Postmates’s general counsel via certified mail. On  
10 May 7, 2018, Plaintiff Jones gave written notice of Postmates’s violations to the California Labor  
11 Code as alleged in this complaint to the LWDA via online filing and to Postmates’s general  
12 counsel via certified mail. On December 4, 2018, Plaintiff Albert gave written notice of  
13 Postmates’s violations to the California Labor Code as alleged in this complaint to the LWDA  
14 via online filing and to Postmates’s general counsel via certified mail. On September 24, 2019,  
15 these Plaintiffs and Plaintiffs Lee and Timmerman gave written notice of additional violations to  
16 the LWDA via online filing and to Postmates’s general counsel via certified mail.

17 36. It has been 65 days since the LWDA was notified of the Labor Code violations  
18 asserted in this Complaint, and the LWDA has not provided any notice that it will or will not  
19 investigate the alleged violations. See Cal. Lab. Code§ 2699.3(a)(2)(A).

20 **VII. COLLECTIVE ACTION ALLEGATIONS**

21 37. Plaintiffs bring Counts XII and XIII under 29 U.S.C. 216(b) of the Fair Labor  
22 Standards Act (“FLSA”). Plaintiffs and other Postmates couriers are similarly situated in that  
23 they are all subject to Postmates’s common plan or practice of failing to pay the federal  
24 minimum wage for all hours worked and overtime for hours worked by drivers in excess of forty  
25 (40) in a given week.

**COUNT I**  
**Unfair Competition in Violation of California Business and Professions Code  
§ 17200 et seq.**

38. Postmates’s conduct, as set forth above, violates the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. (“UCL”). Postmates’s conduct constitutes unlawful business acts or practices, in that Postmates has violated California Business and Professions Code Section 17500 and California Labor Code Sections 351, 353, 432.5, 450, 2802, 3700.5, 3712, 3715, 3700, and 226.8.

39. As a result of Postmates’s unlawful conduct and violation of Cal. Labor Code §§ 450 and 2802, Plaintiffs and class members suffered injury in fact and lost money and property, including, but not limited to loss of business expenses that couriers were required to pay in order to do their jobs.

40. As a result of Postmates’s s unlawful conduct and violation of Cal. Labor Code § 3700.5, 3712, 3715, 3700, and 226.8, Plaintiffs and class members suffered injury in fact because they were required to self-insure against any accidents or harm while Postmates gained an unfair competitive advantage over its competitors by avoiding the need to pay for worker’s compensation insurance for its couriers.

41. As a result of Postmates’s unlawful conduct and violation of Cal. Labor Code § 432.5, Plaintiffs and class members suffered injury in fact because they were required to agree to terms and conditions in their agreements with Postmates that are prohibited by law. Pursuant to Cal. Labor Code § 2804, any contract or agreement made by Plaintiffs to waive rights and benefits conferred by California law is null and void.

42. Pursuant to California Business and Professions Code § 17203, Plaintiffs and class members seek declaratory and injunctive relief for Postmates’s unlawful conduct and to recover restitution. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiffs and class

1 members are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in  
2 bringing this action.

3  
4 **COUNT II**

5 **Independent Contractor Misclassification and Expense Reimbursement Violation**  
6 **(Cal. Labor Code §§ 226.8, 450, 2753, and 2802)**

7 43. As set forth above, Postmates knowingly misclassified couriers as independent  
8 contractors in violation of California Labor Code Sections 226.8 and 2753. Further, Postmates's  
9 conduct, in misclassifying Postmates couriers as independent contractors and failing to reimburse  
10 them for expenses they paid that should have been borne by their employer, constitutes a  
11 violation of California Labor Code Sections 450 and 2802.

12 **COUNT III**

13 **Failure to Pay Wages Due at Termination**  
14 **(Cal. Labor Code §§ 201-203, 204, 206.5, 208, 210, 227.3)**

15 44. Postmates's actions as set forth herein violate California Labor Code § 204, which  
16 requires that Defendant pay all wages due upon the termination of any class member who has  
17 since stopped working for Postmates, and § 227.3, which requires that Postmates pay the cash  
18 value of all vested but unused vacation time upon termination. Certain members of the class  
19 have been terminated by Postmates, but Postmates has willfully failed to make immediate  
20 payment of the full wages due to these couriers as required under California state law.

21 45. Plaintiffs further allege that Postmates violated Cal. Lab. Code § 204 by failing to  
22 pay its couriers for the entirety of their waiting time.

23 46. Pursuant to Cal. Labor Code §§ 204, 218, 218.5 and 218.6, Plaintiffs are entitled  
24 to payment of unpaid wages or compensation, including interest thereon, as well as reasonable  
25 attorneys' fees, and costs of suit.

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**COUNT IV**

**Minimum Wage (Cal. Labor Code §§ 1194, 1197, 1197.1 1182.12, Wage Order 9)**

47. Plaintiffs allege that they worked at rates below the state minimum wage. Pursuant to Cal. Lab. Code §§ 218.5 and 218.6, 1194, 1194.2, and 1194.3, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

48. Cal. Lab. Code § 1197 states that the minimum wage is that set by the commission in the applicable wage order, in this case Wage Order 9. Wage Order 9 incorporates by reference the minimum wage set by statute.

49. Postmates failed to pay Plaintiffs and class members minimum wage. Defendant's actions as set forth herein violate Labor Code §§ 1194, 1197, 1197.1, and 1182.12 because Defendant compensated Plaintiffs at rates so low that they fell below the state minimum wage.

**COUNT V**

**Overtime (Cal. Labor Code §§ 510, 1194, 1198, Wage Order 9)**

50. Cal. Lab. Code § 1198 and Wage Order 9 require employers to pay their employees at their overtime rate of pay for hours worked in excess of eight per day and/or 40 per week.

51. Postmates' actions as set forth herein violate Cal. Labor Code §§ 510, 1194, 1198 because Postmates has failed to pay overtime compensation to Plaintiffs and class members when due for all hours worked over forty (40) per week, or over eight per day.



1 **COUNT VI**

2 **Meal and Rest Breaks (Cal. Labor Code §§ 226.7, 512, 551, 552, 558 and Wage Order 9)**

3 52. Wage Order 9 and Cal. Lab. Code § 226.7 require employers to provide all  
4 employees with one 10-minute duty-free rest period for every four hours worked each day, or  
5 major fraction thereof. Likewise, Cal. Lab. Code § 512 and Wage Order 9 require employers to  
6 provide all employees with one 30-minute duty-free meal period if such employee works more  
7 than five hours in one day and a second 30-minute duty-free meal period if such employee works  
8 more than ten hours in one day. In addition, Cal. Lab. Code §§ 551 and 552 precludes an  
9 employer from causing an employee to work more than six days in seven.

10 53. Postmates has failed to provide the requisite duty-free meal and rest periods to  
11 Plaintiffs and class members as required by California state law. Accordingly, Plaintiffs and  
12 members of the class are entitled to one hour of pay at their regular rate of pay for each day on  
13 which they were not provided with a 10-minute duty-free rest period and one hour of pay at their  
14 regular rate of pay for each day on which they were not provided with a 30-minute duty-free  
15 meal period, plus interest. Plaintiffs are also entitled to civil penalties for days in which they  
16 worked more than six days in seven pursuant to Cal. Lab. Code § 558, as well as interest upon  
17 unpaid wages or compensation, reasonable attorney’s fees, and costs of suit pursuant to Cal.  
18 Labor Code §§ 218.5 and 218.6.

19 **COUNT VII**

20 **Failure to Keep Accurate Records and Provide Itemized Wage Statements (Cal. Labor**  
21 **Code §§ 226, 353, 1174, and 1174.5)**

22 54. Labor Code § 353 requires that every employer in California maintain “accurate  
23 records of all gratuities received by him, whether received directly from the employee or  
24 indirectly by means of deductions from the wages of the employee or otherwise. Such records  
25 shall be open to inspection at all reasonable hours by the department.” Similarly, Labor Code §  
26 1174(d) requires that every employer in California maintain “payroll records showing the hours  
27

1 worked daily by and the wages paid to, and the number of piece-rate units earned by and any  
2 applicable piece rate paid to, employees employed” in California. In addition, Cal. Lab. Code §  
3 1174(d) requires that these records “be kept in accordance with rules established for this purpose  
4 by the [Industrial Welfare] commission.” Rules established by the commission, Wage Order 9, §  
5 7, require that every employer in California “keep accurate information with respect to each  
6 employee,” including without limitation, “time records showing when the employee begins and  
7 ends each work period,” as well as “[m]eal periods, split shift intervals and total daily hours  
8 worked.”  
9

10 55. Moreover, Postmates’s action as set forth herein constitute a violation of Cal.  
11 Labor Code § 226, because Postmates unlawfully failed to provide Plaintiffs and members of the  
12 putative class with accurate itemized wage statements in writing showing gross wages earned,  
13 total hours worked, deductions, net wages earned, pay period, the name of the employee and the  
14 last four digits of his or her social security number, the legal name of the employer, and/or all  
15 applicable hourly rates. Postmates further failed to comply with current or former employees’  
16 requests to inspect or copy records, in violation of Labor Code Section 226(c).

17 56. Because Postmates knowingly and intentionally failed to provide timely, accurate,  
18 itemized wage statements to Plaintiffs as required by Labor Code Section 226(a), and such  
19 failure has caused injury to Plaintiffs by preventing them from accurately knowing the amount of  
20 wages to which they are and were entitled, Plaintiffs and each member of the putative class are  
21 entitled to recover fifty dollars for the initial pay period in which a violation of § 226 occurred,  
22 and one hundred dollars for each violation of § 226 in a subsequent pay period, not to exceed a  
23 penalty of four thousand dollars per member of the putative class plus attorney fees, costs, and  
24 injunctive relief. Postmates is also subject to statutory penalties pursuant to Cal. Lab. Code §  
25 226.3. Likewise, Postmates has failed to maintain accurate records in compliance with Cal. Lab.  
26

1 Code §§ 353 and 1174. Accordingly, Plaintiffs are entitled to collect and seek a civil penalty  
2 from Postmates in the amount of \$500 pursuant to Cal. Lab. Code § 1174.5.

3  
4 **COUNT VIII**

5 **Failure to Provide Paid Sick Leave (Cal. Labor Code §§ 245-249)**

6 57. Cal. Labor Code § 246 provides that an employer must provide any employee  
7 who, on or after July 1, 2015, works in California for the same employer for 30 days or more  
8 within a year from the start of employment, with paid sick days.

9 58. Plaintiffs and members of the class accrued a certain number of paid sick days  
10 and were entitled to use these accrued paid sick days for purposes enumerated in Labor Code  
11 section 246.5(a)(1)-(2). Postmates violated the requirement of Cal. Labor Code § 246 when it  
12 failed to implement policies and procedures that would allow Plaintiffs to accrue and use paid  
13 sick days when permitted.

14 59. Accordingly, pursuant to Labor Code §§ 248.5 and 558, Plaintiffs and class  
15 members are entitled to the payment of sick days unlawfully withheld from them multiplied by  
16 three; or two hundred fifty dollars (\$250), whichever amount is greater. Likewise, pursuant to  
17 Labor Code §§ 248.5 and 558, Plaintiffs and class members are entitled to additional penalties,  
18 not to exceed an aggregate penalty of four thousand dollars (\$4,000), as liquidated damages in  
19 the amount of fifty dollars (\$50) to each Plaintiff or class member.

20 **COUNT IX**

21 **Failure to Pay Reporting Time (Wage Order 9)**

22 60. Wage Order 9, § 5, requires that for each workday that a California employee is  
23 required to report for work and does report, but is either not put to work or is furnished less than  
24 half of that employee's usual or scheduled day's work, each such employee must be paid an  
25 amount equal to half of his or her usual or scheduled day's pay, or in any event must be paid an  
26 amount equal to 2 hours at the employee's regular rate of pay.



1 couriers will be accurately compensated for all of their waiting time, when in fact Postmates  
2 underreports the amount of time couriers spend waiting for a delivery.

3  
4 **COUNT XII**

5 **Unpaid Minimum Wage Under the FLSA**

6 67. Postmates’s willful conduct in failing to ensure its employees receive the federal  
7 minimum wage, and requiring its employees to pay for the expenses of their employment (all of  
8 which contribute to them not receiving the federal minimum wage), violates the FLSA, 29  
9 U.S.C. § 201, *et seq.* This claim is brought on behalf of a class of similarly situated individuals  
10 who have worked for Postmates in California and may choose to “opt in” to this case, pursuant to  
11 29 U.S.C. § 216(b).

12 **COUNT XIII**

13 **Unpaid Overtime Under the FLSA**

14 68. The Fair Labor Standards Act, 29 U.S.C. §207(a)(1), states that an employee must  
15 be paid overtime, equal to one and one-half (1.5) times the employee’s regular rate of pay, for all  
16 hours worked in excess of 40 per week. Plaintiffs sometimes worked in excess of forty (40)  
17 hours per week but were not paid premium pay for all hours worked over 40 in a week. As a  
18 direct and proximate result of Postmates’s unlawful conduct, Plaintiffs have suffered lost wages  
19 and other damages. This claim is brought on behalf of a class of similarly situated individuals  
20 who may choose to “opt-in” to this case, pursuant to 29 U.S.C. § 216(b).

21 **COUNT XIV**

22 **Penalties Pursuant to Labor Code Private Attorneys General Act of 2004**  
23 **Violation of Cal. Lab. Code §§ 2698, *et seq.***

24 69. Plaintiffs reallege and incorporate by reference the allegations in the preceding  
25 paragraphs as if fully alleged herein. Plaintiffs are aggrieved employees as defined by Cal. Lab.  
26 Code § 2699(c) as they were employed by Postmates during the applicable statutory period and  
27 suffered injury as a result of Postmates’s Labor Code violations. Accordingly, Plaintiffs seek to

1 recover on behalf of the State of California, as well as themselves and all other current and  
2 former aggrieved employees of Postmates who have worked in California, the civil penalties  
3 provided by PAGA, plus reasonable attorney’s fees and costs.

4           25. Postmates couriers are entitled to penalties for Postmates’s violations of Cal. Lab.  
5 Code § 2802, § 226(a), § 226.8 and §§ 1194, 1197, 1198, 510, and 554 as set forth by Cal. Lab.  
6 Code § 2699(f). Plaintiffs seek civil penalties pursuant to PAGA for: (1) the willful  
7 misclassification of delivery workers as independent contractors in violation of Cal. Lab. Code §  
8 226.8; (2) failure to reimburse courier employees for all necessary expenditures incurred in  
9 performing their duties, including but not limited to owning or leasing and maintaining their  
10 vehicles, fuel, phones, and data, in violation of Cal. Lab. Code §2802; (3) failure to assure that  
11 all couriers received at least the applicable minimum wage for all hours worked in violation of  
12 Cal. Lab. Code §§ 1194, 1197; (4) failure to assure that all couriers received the appropriate  
13 overtime premium for all overtime hours worked beyond forty per week or eight hours per day in  
14 violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554; (5) failure to provide proper itemized  
15 wage statements that include hours worked and hourly wages and are accessible outside the  
16 Postmates Application in violation of Cal. Lab. Code § 226(a); (6) failure to pay all overtime  
17 premium wages twice each calendar month in violation of Cal. Lab. Code §§ 204 & 210; (7)  
18 failure to pay all overtime wages due upon termination (or within 72 hours of termination for  
19 voluntary terminations) in violation of Cal. Lab. Code §§ 201, 202, and 203; (8) failure to  
20 provide statutorily required meal and rest breaks in violation of Cal. Lab. Code §§ 226.7, 512, &  
21 1198; and (9) failure to keep proper pay records “showing the hours worked daily by and the  
22 wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to,  
23 employees employed” in California as well as the amount of gratuities received by Plaintiffs in  
24 violation of Cal. Labor Code § 1174(d) and § 353.

25  
26           26. Cal. Lab. Code § 2699(f) provides for civil penalties for violation of all Labor  
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1 Code provisions for which no civil penalty is specifically provided. There is no specified civil  
2 penalty for violations of Cal. Lab. Code § 2802. With respect to minimum wage violations  
3 under Cal. Lab. Code §§ 1197 and 1194, § 1197.1 imposes a civil penalty in addition to any  
4 other penalty provided by law of one hundred (\$100) for each underpaid employee for each pay  
5 period for which the employee is underpaid in addition to an amount sufficient to recover  
6 underpaid wages and liquidated damages, and, for each subsequent violation of Labor §§1197  
7 and 1194, two hundred and fifty dollars (\$250) for each underpaid employee for each pay period  
8 for which the employee is underpaid in addition to an amount sufficient to recover underpaid  
9 wages and liquidated damages. With respect to overtime violations under Labor Code §§ 510  
10 and 558, the statute imposes a civil penalty in addition to any other penalty provided by law of  
11 fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for  
12 which the employee was underpaid in addition to an amount sufficient to recover unpaid wages,  
13 and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each  
14 pay period for which the employee was underpaid in addition to an amount sufficient to recover  
15 underpaid wages. With respect to violations of Labor Code § 226.8, Labor Code § 226.8(b)  
16 imposes a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen  
17 thousand dollars (\$15,000) for each violation. With respect to meal and rest break violations  
18 under Labor Code §§ 226.7, 512, Labor Code § 558 imposes a civil penalty in addition to any  
19 other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid  
20 employee for each pay period for which the employee was underpaid in addition to an amount  
21 sufficient to recover unpaid wages, and one hundred dollars (\$100) for subsequent violations for  
22 each underpaid employee for each pay period for which the employee was underpaid in addition  
23 to an amount sufficient to recover underpaid wages. With respect to violations of Labor Code §  
24 226(a), Labor Code § 226.3 imposes a civil penalty in addition to any other penalty provided by  
25 law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one  
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1 thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §  
2 226(a). With respect to violations of Labor Code §§ 201, 202, 203 & 204, Labor Code § 210  
3 imposes a civil penalty in addition to any other penalty provided by law of one hundred dollars  
4 (\$100) per aggrieved employee for the first violation, and two hundred (\$200) dollars per  
5 aggrieved employee plus twenty-five percent of the amount unlawfully withheld. With respect  
6 to violations of Labor Code § 1174(d), Labor Code § 1174.5 imposes a civil penalty of \$500 per  
7 aggrieved employee for each willful failure to maintain records.  
8

9 27. Plaintiffs complied with the notice requirement of Cal. Lab. Code §2699.3 and  
10 served a written notice to the LWDA through its website's online filing portal, and on Defendant  
11 Postmates via Certified Mail, return receipt requested, on May 1, 2018, May 7, 2018, December  
12 4, 2018, and September 24, 2019. It has been 65 days or more since the LWDA was notified of  
13 the Labor Code violations asserted in this Complaint, and the LWDA has not provided any  
14 notice that it will or will not investigate the alleged violations.

15 WHEREFORE, Plaintiffs request that this Court enter the following relief:

- 16 a. Declare and find that the Defendant violated Wage Order 9, the UCL, Cal. Lab. Code  
17 §§ 201-204, 207, 226.8, 226.7, 245-249, 2802, 1194, 1197, 1198, 510, 554, and the  
18 Fair Labor Standards Act, 29 U.S.C. § 201 et seq.;
- 19 b. Certify this case as a class action under Count I through XIV and appoint Plaintiffs  
20 Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, and Joshua Albert and  
21 their counsel to represent a class of Postmates couriers who have made deliveries in  
22 the state of California since June 3, 2017;
- 23 c. Certify this case as a collective action pursuant to 29 U.S.C. § 216(b);
- 24 d. Award compensatory damages, including all expenses and wages owed, in an amount  
25 according to proof;
- 26 e. Enter Judgment in Plaintiffs' favor on their PAGA claim pursuant to Cal. Lab. Code  
27



1 §2699(c);

- 2 f. Award penalties in an amount according to proof;
- 3 g. Award pre- and post-judgment interest;
- 4 h. Award reasonable attorneys' fees, costs, and expenses;
- 5 i. Public injunctive relief in the form of an order requiring Defendant to comply with
- 6 the California Labor Code; and
- 7
- 8 j. Any other relief to which the Plaintiffs may be entitled.

9 Respectfully submitted,

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12 ALBERT,

13 By their attorneys,

14 

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