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Attorneys for JOHN QUINN,  
Representative and proxy for the  
State of California

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
LOS ANGELES COUNTY

JOHN QUINN, as representative and proxy  
of the State of California,  
  
Plaintiff,  
  
v.  
  
LPL FINANCIAL LLC, and Does 1  
through 50, inclusive,  
  
Defendants.

CASE NO. **20STCV06589**  
**COMPLAINT FOR CIVIL PENALTIES  
UNDER THE LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT**

**By Fax**

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

FEB 20 2020

Sherri K. Carter, Executive Officer/Clerk of Court  
By *Steven Drew*, Deputy

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**I. INTRODUCTION**

1. Plaintiff John Quinn, as representative and proxy of the State of California, brings this action for recovery of penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code § 2698, *et seq.* PAGA permits an “aggrieved employee” to bring a lawsuit on behalf of the State of California and other current and former aggrieved employees to address an employer’s violations of the California Labor Code. For purposes of this lawsuit, “Aggrieved Employees” is defined as follows:

All individuals who worked in the State of California for LPL Financial LLC (“LPL”) as a Financial Advisor, or the functional equivalent thereof however titled (which position includes the titles of “Financial Consultant,” “Securities Broker,” “Stockbroker,” “Investment Advisor,” and/or “Investment Representative,” collectively referred to as “Financial Advisor”), from November 4, 2018 to the present.

**II. PARTIES**

2. Plaintiff John Quinn is a citizen of the State of California. Plaintiff worked for Defendant LPL in this judicial district.

3. Defendant LPL Financial LLC was and is a California limited liability company with its principal place of business in San Diego, California. LPL transacts business in this judicial district.

4. The true names and capacities of persons or entities, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to plaintiff, who therefore sues them by such fictitious names under C.C.P. § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the defendants designated herein as a DOE defendant is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of such other responsible parties when their identities become known. Plaintiff will refer to all defendants collectively as “defendant” or “LPL.”



1 willful act of Plaintiff or the Aggrieved Employees, but rather are the result of Plaintiff and the  
2 Aggrieved Employees performing their job duties as required by Defendant.

3 9. Labor Code § 223 provides: “Where any statute or contract requires an  
4 employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower  
5 wage while purporting to pay the wage designated by statute or by contract.”

6 10. Labor Code §§ 400 - 410 (“Employee Bond Law”) provide the limited  
7 circumstances under which an employer can exact a cash bond from its employees. These  
8 provisions are designed to protect employers against the very real danger of an employee  
9 taking or misappropriating employer funds held by the employee in trust. There are no  
10 circumstances that would justify Defendant obtaining cash bonds from Plaintiff or the  
11 Aggrieved Employees. IWC Wage Order 4-2001, Section 8 provides that the only  
12 circumstance under which an employer can make a deduction from an employee's wages due  
13 to cash shortage, breakage, or loss of equipment is if the employer can prove that the shortage,  
14 breakage, or loss was the result of the employee's gross negligence or dishonest or willful act,  
15 which the above-referenced deductions were not.

16 11. Defendant has violated Cal. Labor Code §§ 221, 223, and 400 - 410, and IWC  
17 Wage Order 4-2001, Section 8 by unlawfully taking deductions from Plaintiff and Aggrieved  
18 Employees’ wages to cover certain ordinary business expenses of Defendant as identified  
19 above. Because Defendant took unlawful deductions from Plaintiff and the Aggrieved  
20 Employees’ was, it has violated Labor Code §§ 218.5, 221, 223, and 400 – 410, 1194 as well  
21 as IWC Wage Order 4-2001, Section 8.

22 **B. Failure to Pay on Regular Paydays**

23 12. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person  
24 in any employment are due and payable twice during each calendar month, on days designated  
25 in advance by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these  
26 requirements are “deemed satisfied by the payment of wages for weekly, biweekly or  
27 semimonthly payroll if the wages are paid not more than seven calendar days following the  
28 close of the payroll period.”



1 **D. Waiting Time Penalties**

2 16. Plaintiff and other formerly employed Aggrieved Employees were discharged  
3 by Defendant or voluntarily quit. Defendant, in violation of California Labor Code §§ 201 and  
4 202, has a consistent and uniform policy, practice and procedure of willfully failing to timely  
5 pay the final wages to its former employees. Plaintiff and other formerly employed Aggrieved  
6 Employees did not secret or absent themselves from Defendant nor refuse to accept the earned  
7 and unpaid wages from Defendant. As a result of Defendant’s violations of Labor Code §§  
8 201-202, Defendant should have paid Plaintiff and other formerly employed Aggrieved  
9 Employees waiting time penalties under Section 203. This failure triggers civil penalties that  
10 are recoverable under PAGA.

11 **E. Aggrieved Employees are Employees and not Independent Contractors**

12 17. Plaintiff and the Aggrieved Employees are “employees” and not “independent  
13 contractors,” regardless of whether the test for employment status is governed by *Dynamex*  
14 *Operations West, Inc. v. Superior Court*, 4 Cal.5th 903 (2018) or *S.G. Borello & Sons, Inc. v.*  
15 *Department of Industrial Relations*, 48 Cal.3d 341 (1989).

16 18. Plaintiff and the Aggrieved Employees do not perform work outside the  
17 Defendant’s normal course of business, as Defendant is in the business of providing financial  
18 products and services to its clients, and Plaintiff and the Aggrieved Employees are engaged in  
19 the same business on behalf of the same clients. Plaintiff and the Aggrieved Employees are not  
20 engaged in an independently established trade, occupation or business. Instead, they provide  
21 financial products and services and are required to hold themselves out to the public as being  
22 affiliated with Defendant. Plaintiff and other Aggrieved Employees are not permitted to work  
23 for any other broker-dealer while employed by Defendant.

24 19. Defendant retains all necessary control over Plaintiff’s and the other Aggrieved  
25 Employees’ work. Plaintiff and other Aggrieved Employees work under the close supervision  
26 of Defendant. Plaintiff and the Aggrieved Employees do not operate distinct businesses, but  
27 are integrated into Defendant’s business; Defendant closely monitors the work of its Financial  
28 Advisors; Defendant provides marketing, products, back-office support, forms and documents

1 which have the LPL logo on it, representing the tools of work; Defendant pays Plaintiff and  
2 the Aggrieved Employees commissions, which is consistent with an employer-employee  
3 relationship; and Financial Advisors often stay with Defendant for years.

4 20. Defendant retains the right to control the method and manner of how Plaintiff  
5 and Aggrieved Employees perform their job duties. Among other things, Plaintiff and  
6 Aggrieved Employees are required to follow detailed requirements imposed on them by  
7 Defendant governing their interactions with clients, recommendations, sales, marketing,  
8 continuing education, licensing, internal and external communications, financial relationships  
9 with other employees, the personal financial dealings, and personal conduct among other areas.

10 21. Based on the foregoing violations suffered by Plaintiff and the Aggrieved  
11 Employees, Plaintiff seeks recovery of civil penalties including, without limitation, all  
12 penalties that may be authorized under Labor Code sections 2699(f)(2), 203, 210, 225.5, 226,  
13 226.3, and 558.

14 22. On November 4, 2019, plaintiff John Quinn served notice via online submission  
15 to the LWDA and via certified mail to LPL of Plaintiff's intent to file a complaint against LPL  
16 under PAGA. At that time, Plaintiff also paid the filing fee to the LWDA pursuant to Labor  
17 Code § 2699.3. Plaintiff did not receive a response to his notice within the time proscribed by  
18 Labor Code § 2699.3.

#### 19 **IV. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

- 21 1. For penalties according to proof;
  - 22 2. For reasonable attorneys' fees and costs; and,
  - 23 3. For such other relief the Court deems just and proper.
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Dated: February 18, 2020

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