

Assigned for all purposes to: Chatsworth Courthouse, Judicial Officer: Melvin Sandvig

HAIG B. KAZANDJIAN LAWYERS, APC

Haig B. Kazandjian, Esq., Bar No.: 278622

Cathy Gonzalez, Esq., Bar No.: 310625

Kevin P. Crough., Bar No.: 323904

801 North Brand Boulevard, Suite 970

Glendale, California 91203

Telephone: 1-818-696-2306

Facsimile: 1-818-696-2307

Attorneys for Plaintiff FERNANDO GODINEZ

on behalf of himself and all other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FERNANDO GODINEZ, an individual, on) **Case No.**
behalf of herself and all other aggrieved)
employees)

Plaintiff,

vs.

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ.**

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

THE NATURE'S BOUNTY CO.; NATURAL
PRODUCTS GROUP, LLC; LEVLAD
INTERMEDIATE HOLDCO, INC.;
ARBONNE INTERNATIONAL, LLC;
LEVLAD, LLC; ARBONNE INSTITUTE OF
RESEARCH AND DEVELOPMENT, LLC;
ARBONNE INTERNATIONAL
DISTRIBUTION, INC.; JAIME PEREZ, an
individual,

Defendants.

1 Plaintiff FERNANDO GODINEZ (“Representative Plaintiff” “Plaintiff” or “Godinez”) alleges as
2 follows:

3 **PARTIES**

4 1. Representative Plaintiff is an individual who resides in California and was
5 employed by defendants THE NATURE'S BOUNTY CO., NATURAL PRODUCTS GROUP,
6 LLC, LEVLAD INTERMEDIATE HOLDCO, INC., ARBONNE INTERNATIONAL, LLC,
7 LEVLAD, LLC, ARBONNE INSTITUTE OF RESEARCH AND DEVELOPMENT, LLC,
8 ARBONNE INTERNATIONAL DISTRIBUTION, INC., and ARBONNE INTERNATIONAL,
9 (hereinafter collectively referred to as “Defendants,” or the “Companies”) from on or about March
10 13, 2017 until on or about April 16, 2019.

11 2. Defendant JAIME PEREZ (hereinafter, “Defendant Perez”) was Representative
12 Plaintiff’s direct report and supervisor at Defendants. Defendant Perez, acting as Agent of
13 Defendants, was responsible for Representative Plaintiff’s schedule, timekeeping, and clocking in
14 and out for rest breaks, meal breaks, and his shifts.

15 3. Representative Plaintiff is informed, believes, and thereupon alleges that at all times
16 mentioned herein Defendants are California Corporations, licensed to do business and actually
17 doing business in the State of California.

18 4. Representative Plaintiff is unaware of the true names and capacities, whether
19 corporate, individual, or otherwise, of defendants named as DOES 1 through 100, inclusive.
20 Pursuant to California Code of Civil Procedure section 474, Representative Plaintiff will seek leave
21 of court to amend this complaint to state said Defendants’ true names and capacities when the same
22 have been ascertained. Representative Plaintiff is informed and believes and based on such
23 information and belief alleges that said fictitiously-named defendants are responsible in some
24 manner for the injuries and damages to Representative Plaintiff, and other aggrieved employees as
25 further alleged herein.

26 **VENUE AND JURISDICTION**

27 5. Venue is proper under California Code of Civil Procedure section 395 and under
28 California Government Code section 12965(b), in that Representative Plaintiff’s injuries were

1 incurred within the County of Los Angeles, the actions giving rise to Representative Plaintiff's
2 complaint arose within the County of Los Angeles, and Defendant is located in the County of Los
3 Angeles.

4 **STATEMENT OF FACTS**

5 6. This is only a Private Attorney General Action Complaint, pursuant to California
6 Labor Code section 2699 et seq., on behalf of FERNANDO GODINEZ and all other persons
7 similarly situated who worked for Defendants in its California locations as non-exempt hourly
8 employees - (herein collectively identified as "other aggrieved employees") for: (i) failure to pay
9 straight and overtime compensation in violation of Labor Code sections 223, 510, 558, 1194,
10 1194.2, 1199; (ii) failure to provide meal periods in violation of Labor Code sections 226.7, 512;
11 (iii) failure to provide rest breaks in violation of Labor Code section 226.7; (iv) failure to pay all
12 wages owed in violation of Labor Code sections 204, 223; (v); failure to provide itemized wage
13 statements in violation of Labor Code section 226; (vi) failure to keep accurate payroll records in
14 violation of Labor Code sections 226, 1198 and the I.W.C. Wage Orders; and (vii) Illegal
15 Rounding Practices; (viii) Failure to Reimburse Necessary Business-Related Expenses and Costs

16 7. Representative Plaintiff was hired by Defendants as a Compounder on or about
17 March 13, 2017. Representative Plaintiff worked for Defendants up until on or about April 16,
18 2019 when his employment was terminated.

19 8. Defendants have a consistent policy of failing to pay for straight and overtime hours
20 worked by the Defendants' non-exempt hourly California employees in violation of California law.
21 Defendants failed to pay Representative Plaintiff and other similarly aggrieved employees for all of
22 the time in which they were under its control as stated above.

23 9. Defendants failed to pay its aggrieved employees' overtime in accordance with state
24 law when they worked in excess of 8 hours in a day and/or 40 hours within a workweek.
25 Defendants also failed to pay their aggrieved employees double time in accordance with California
26 state law.

27 10. Representative Plaintiff and other aggrieved employees were frequently required to
28 work during their meal periods and rest breaks. During so-called "working lunches" and missed

1 breaks, employees had to finish tasks that they did not have time to finish during their regular shift
2 because of understaffing, insufficient scheduling, and/or other actions or inactions by Defendants.

3 11. Defendants failed to provide Representative Plaintiff and other aggrieved employees
4 with meal periods in accordance with Labor Code Sections 512 and 226.7. Aggrieved employees
5 were often not afforded an opportunity to take an off-duty meal period of at least 30 minutes within
6 the first five hours of their shift because of work demands, understaffing, and/or other actions or
7 inactions by Defendants as can be evidenced by the employee records.

8 12. When aggrieved employees worked in excess of 10 hours in a day, they were not
9 offered an opportunity to take a second meal period in accordance with Labor Code section 512.

10 13. Representative Plaintiff and other aggrieved employees were not provided a
11 premium wage payment pursuant to Labor Code section 226.7 for their unprovided meal periods
12 and rest periods as they were not relieved of all duties and responsibilities as required by the law.
13 Defendants' failure to properly pay Representative Plaintiff and other aggrieved employees for all
14 hours worked in these instances violates Labor Code sections 201, 202, 203, 204, 223, 510, 1194
15 and 1198.

16 14. Defendants and Defendant Perez, being aware of these occurrences, still deducted
17 30 minutes from Representative Plaintiff and other aggrieved employees pay on these days that
18 they were required to continue working without a legal meal period by altering and adjusting time-
19 sheets and time-cards.

20 15. Defendants also failed to provide Plaintiff and other aggrieved employees with a 10-
21 minute rest break for every four hours of work, or every major fraction thereof, as employees were
22 forced to work extended periods without rest breaks due to understaffing, audits, meetings and/or
23 other actions or inactions by Defendants. Defendants also failed to provide their employees with a
24 premium wage payment pursuant to Labor Code section 226.7 when it failed to provide its
25 employees with legally adequate rest breaks.

26 16. Additionally, Defendants required Representative Plaintiff and other aggrieved
27 employees to work without appropriate compensation, including the payment of at least minimum
28 wage for such work time as described above in violation of Labor Code sections 201, 202, 203,

1 204, 223, 510, 1194, 1197, 1197.1 and 1198, and the Industrial Welfare Commission (“IWC”)
2 Wage Orders, Section 3.

3 17. California Labor Code section 226(a) provides that every employer shall furnish to
4 each of its employees an accurate itemized wage statement in writing, showing, among other
5 things, all applicable hourly rates in effect during the pay period and the corresponding correct
6 number of hours worked at each hourly rate by the employee. Defendants’ wage statements fail to
7 comply with this section of the Labor Code as they list the incorrect rates of pay and the incorrect
8 number of hours worked at each rate of pay.

9 18. The number of hours that the employees actually spent working for the Companies,
10 which are listed on the pay stubs, is incorrect because of the Companies’ failure to properly
11 compensate its employees for all of the time that they spent working under their employer’s control
12 due to its failure to pay for all work time, including during “working lunches” and missed rest
13 breaks, among other instances.

14 19. Defendants also failed to indemnify Plaintiff and other aggrieved employees for all
15 necessary expenditures or losses incurred by the employee’s in direct consequence of the discharge
16 of their duties, or of their obedience to the directions of the Defendant. This includes, but is not
17 limited to; personal cell phone use, travel expenses, and parking expenses.

18 20. Representative Plaintiff and other aggrieved employees were directed to use their
19 own personal cell phones in order to communicate with other employees and customers. Further,
20 Plaintiff and the other aggrieved employees were also regularly made to travel at the behest of
21 Defendant, but were not paid for their travel or their parking expenses as required by law. Plaintiff
22 and the other aggrieved employees would not have been able to successfully accomplish their job
23 duties absent incurring these personal expenses. The Companies failed to indemnify Plaintiff and
24 other aggrieved employees for all necessary expenditures or losses incurred by the employee’s in
25 direct consequence of the discharge of their duties, or of their obedience to the directions of the
26 Defendant in violation of Labor Code 2800 and 2802.

27 21. Defendants “rounding” practices are neither neutral on their face or as applied in
28 violation Labor Code 204 as defined by the California Court of Appeals in (*See’s Candy Shops*,

1 *Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 909.) and as adopted by the California DLSE.
2 These violations can be shown by a review of the employment timekeeping records.

3 22. Plaintiff and all aggrieved employees who were separated from their employment
4 with Defendants, to whom Defendants willfully failed to pay for all hours worked, as described
5 herein, are also entitled to up to thirty days of wages pursuant to California Labor Code sections
6 201, 202 and 203.

7 23. Defendants' failure to properly pay Plaintiff and other aggrieved employees for all
8 hours worked in these instances violate Labor Code sections 201, 202, 203, 204, 223, 510, 558,
9 1194 and 1198 which requires that employees be timely paid all wages due to them. Defendants
10 also knowingly underpaid Plaintiff in violation of Labor Code section 1194.2 as noted above, and
11 caused Plaintiff to work for longer hours than those fixed by law in violation of Labor Code section
12 1199.

13 24. The Companies practice of "rounding" employees' hours worked was neither
14 neutral on its face nor in its application, and is therefore violative of Labor Code 204, as defined by
15 the California Court of Appeals in *See's Candy Shops, Inc. v. Superior Court* (2012) 210
16 Cal.App.4th 889, 909., and as adopted by the California DLSE.

17 25. Representative Plaintiff filed two PAGA Notices pursuant to the above; the first on
18 January 28, 2020 and the second on February 14, 2020.

19 **FIRST CAUSE OF ACTION**

20 **(VIOLATION OF LABOR CODE § 2698, *ET SEQ.*)**

21 **(By Plaintiff Against Defendants and Does 1 through 10, inclusive)**

22 26. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through
23 21, and each and every part thereof with the same force and effect as though fully set forth herein.

24 27. PAGA expressly establishes that any provisions of the California Labor Code which
25 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
26 divisions, commissions, boards, agencies or employees for a violation of the California Labor
27 Code, may be recovered through a civil action brought by an aggrieved employee on behalf of
28 himself or herself, and other current or former employees.

1 28. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
2 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized
3 to exercise the same discretion, subject to the same limitations and conditions, to assess a civil
4 penalty.

5 29. Plaintiff and the other hourly-paid or non-exempt employees, are “aggrieved
6 employees” within the meaning of California Labor Code section 2699(c) as they are all current or
7 former employees of Defendants, and one or more of the alleged violations was committed against
8 them.

9 **Failure to Pay Overtime**

10 30. Defendants’ failure to pay legally required overtime wages to Plaintiff and the other
11 aggrieved employees is in violation of the applicable Wage Orders and constitutes unlawful and/or
12 unfair activity prohibited by California Labor Code sections 510 and 1198.

13 **Failure to Provide Meal Periods**

14 31. Defendants’ failure to provide legally required meal periods to Plaintiff and the
15 other aggrieved employees is in violation of the applicable Wage Orders and constitutes unlawful
16 and/or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

17 **Failure to Provide Rest Periods**

18 32. Defendants’ failure to provide legally required rest periods to Plaintiff and the other
19 aggrieved employees is in violation of the applicable Wage Orders and constitutes unlawful and/or
20 unfair activity prohibited by California Labor Code section 226.7.

21 **Failure to Timely Pay Wages During Employment**

22 33. Defendants’ failure to timely pay wages to Plaintiff and the other aggrieved
23 employees during employment in accordance with Labor Code section 204 constitutes unlawful
24 and/or unfair activity prohibited by California Labor Code section 204.

25 **Failure to Provide Complete and Accurate Wage Statements**

26 34. Defendants’ failure to provide complete and accurate wage statements to Plaintiff
27 and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes
28 unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

1 **Failure to Keep Complete and Accurate Payroll Records**

2 35. Defendants' failure to keep complete and accurate payroll records relating to
3 Plaintiff and the other aggrieved employees in accordance with California Labor Code section
4 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section
5 1174(d).

6 **Illegal Rounding Practices**

7 36. Defendant's failure to institute a rounding practice that is both neutral on its face
8 and in its application is in violation of Labor Code 204, as defined by the California Court of
9 Appeals in (*See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 909.), and as
10 adopted by the California DLSE.

11 **Failure to Reimburse Necessary Business-Related Expenses and Costs**

12 37. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for
13 necessary business-related expenses and costs in accordance with California Labor Code sections
14 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code
15 sections 2800 and 2802.

16 38. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on
17 behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of
18 them, business expenses, unpaid wages, and/or untimely wages according to proof, interest,
19 attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all statutory
20 penalties against Defendants, and each of them, including but not limited to:

21 a. Penalties under California Labor Code section 2699 in the amount of a
22 hundred dollars (\$100) for each aggrieved employee per pay period for the initial
23 violation, and two hundred dollars (\$200) for each aggrieved employee per pay
24 period for each subsequent violation;

25 b. Penalties under California Code of Regulations Title 8 section 11010, et seq.
26 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for
27 the initial violation, and one hundred dollars (\$100) for each aggrieved employee
28 per pay period for each subsequent violation;

1 c. Penalties under California Labor Code section 210 in addition to, and
2 entirely independent and apart from, any other penalties provided in the California
3 Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee
4 per pay period for the initial violation, and two hundred dollars (\$200) for each
5 aggrieved employee per pay period for each subsequent violation; and

6 d. Any and all additional penalties and sums as provided by the California
7 Labor Code and/or other statutes.

8 39. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
9 aggrieved employees shall be distributed as follows: seventy-five percent
10 (75%) to the Labor and Workforce Development Agency for the
11 enforcement of labor laws and education of employers and employees about
12 their rights and responsibilities and twenty-five percent (25%) to the
13 aggrieved employees.

14 40. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs
15 pursuant to California Labor Code sections 210, 218.5 and 2699 and any
16 other applicable statute.

17 THEREFORE, Representative Plaintiff and the individuals he seeks to represent request
18 relief as described below:

19 **PRAYER**

20 THEREFORE, Representative Plaintiff prays for judgment against Defendants, and Does 1
21 through 100, and each of them, as follows:

- 22 1. Statutory attorneys' fees and costs under PAGA and California Code of Civil
23 Procedure Section 1021.5;
24 2. Statutory penalties under PAGA;
25 3. Costs of suit; and
26 4. Such further relief as the Court deems just and proper.

27 ///

28 ///

1 Dated: April 16, 2020

HAIG B. KAZANDJIAN LAWYERS, APC.

2
3 By: *Haig B. Kazandjian*

4 Haig B. Kazandjian, Esq.,

5 Cathy Gonzalez, Esq.,

6 Kevin P. Crough, Esq.,

7 *Attorneys for Plaintiff FERNANDO GODINEZ*

8 *on behalf of himself and all others similarly*
9 *situated*