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16
17 **SUPERIOR COURT OF CALIFORNIA**
18 **COUNTY OF LOS ANGELES**

19 ELIZABETH CARDENAS, an individual,
20 on behalf of herself and all others similarly
21 situated,

22 Plaintiffs,

23 vs.

24 LIFE ENHANCING PRODUCTS, INC., a
25 Florida Corporation, and DOES 1 through 50,
26 inclusive

27 Defendants.

CASE NO.

20STCV13999

COMPLAINT

- 1) Failure to Pay Minimum Wage – Cal. Labor Code § 1197;
- 2) Failure to Pay Overtime – Cal. Labor Code §§ 510 and 1194;
- 3) Inaccurate Wage Statements – Cal. Labor Code § 226;
- 4) Waiting Time Penalties – Cal. Labor Code §§ 201-203; and
- 5) Violations of California Labor Code § 2698 *et seq.*

DEMAND FOR A JURY TRIAL

1 Plaintiff Elizabeth Cardenas ("Plaintiff"), in her representative capacity, complains and
2 alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff was employed by Life Enhancing Products, Inc. ("Defendant"). Plaintiff
5 brings this action pursuant to the Private Attorneys General Act of 2004 ("PAGA"), California
6 Labor Code § 2698 *et seq.* on a representative basis. All current and former non-exempt
7 employees of Defendant are aggrieved employees.

8 2. The California Labor Code requires employers to provide its employees, among
9 other things, itemized wage statements, minimum and overtime wages, and prompt payment of
10 wages upon termination. Defendant failed to comply with California Labor Code requirements.

11 3. Defendant failed to pay Plaintiff minimum wage for all hours worked.

12 4. Defendant failed to pay overtime wages of one and one half of Plaintiff's hourly
13 wage for all hours worked over 8 hours in a day or 40 hours in a week.

14 5. Defendant failed to provide Plaintiff with accurate wage statements indicating all
15 hours worked and the applicable hourly rate.

16 6. As Plaintiff is no longer employed by Defendant, Defendant has continuously
17 failed to pay Plaintiff all wages owed and due.

18 7. Plaintiff, in her representative capacity, seeks civil penalties on behalf of herself
19 and other aggrieved employees pursuant to PAGA.

20 8. Plaintiff seeks civil penalties for the above acts as well as those identified below,
21 which violate PAGA.

22 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

23 9. On January 8, 2020, Plaintiff electronically filed a complaint with the LWDA,
24 case number LWDA-CM- 765461-20, and paid the statutory fee to the LWDA. *See* Exh. 'A'
25 attached hereto. On January 8, 2020, Plaintiff also sent a letter via certified mail to Defendant
26 informing it of Plaintiff's complaints alleged herein. Plaintiff has not received notice of any
27 attempts to cure by Defendant. *See* Exh. 'B' attached hereto.

28 10. The LWDA did not provide notice of its intention to investigate Defendant's

1 alleged violations by March 16, 2020 – or sixty-five days after notice – and Defendant did not
2 provide any notice of its intent to cure the alleged violations.

3 11. Defendant employed individuals throughout the State of California within 1 year
4 of the filing of the Complaint at its manufacturing facilities. It manufactures vitamins and
5 supplements.

6 12. Defendant used a labor force that was a combination of its own employees and
7 jointly employed persons who also worked for a staffing company. Combined, Defendant
8 regularly employed 26 or more employees. California minimum wage for employers of twenty-
9 six (26) or more employees was \$12 an hour during 2019. In violation of Labor Code Sections
10 1194 and 1197, Defendant paid its non-exempt employees less than California’s minimum wage
11 for each hour worked. Plaintiff was paid \$11.83 per hour during 2019. This is a violation of
12 Labor Code Sections 1194 and 1197.

13 13. Labor Code Section 510 provides that employees who work in excess of eight
14 hours in a day or forty hours in a week must be paid 1.5 times their applicable rate of pay for
15 hours worked in excess of eight in a day or forty hours in a week. Employees who worked for
16 Defendant in excess of eight hours in a day or forty hours in a week were paid at a rate less than
17 1.5 times the applicable minimum wage for the hours worked in excess of eight hours in a day or
18 forty hours in a week. This is a violation of Labor Code Section 510.

19 14. Labor Code Section 226 requires an employer to furnish to employees an accurate
20 itemized wage statement in writing showing the gross wages earned, net wages earned and all
21 applicable hourly rates in effect during the pay period. California minimum wage sets that
22 minimum applicable rate of pay. Nevertheless, Defendant’s wage statements provided a gross
23 wage earned, net wage earned and hourly rates in effect that was less than minimum wage.
24 Employees were in fact paid an hourly rate that was less than minimum wage. Defendant paid
25 Plaintiff \$11.83 an hour and used this amount on her wage statements to calculate the gross
26 wages paid, net wages paid and provided it as the applicable rate of pay.

27 15. Defendant regularly failed to pay its Employees in compliance with Labor Code
28 Section 204. The employees were non-exempt and therefore were entitled to be paid all wages

1 owed at least twice per month. Employees who were paid less than minimum wage were not
2 paid all wages owed at least twice per month. Defendant's practice of not paying all wages owed
3 twice a month violated Labor Code Section 204.

4 16. In violation of Labor Code Sections 201, 202, and 204 upon separation from
5 Defendant, employees were still owed wages and are still owed said wages today.

6 **JURISDICTION AND VENUE**

7 17. This Court has jurisdiction over Plaintiff's claims for damages and for civil
8 penalties under PAGA. Venue is proper in this judicial district pursuant to California Code of
9 Civil Procedure section 395(a) as Plaintiff resides in the County of Los Angeles.

10 18. The amount in controversy exceeds the jurisdictional minimum of this Court.

11 **III.**

12 **PARTY ALLEGATIONS**

13 **A. Plaintiff**

14 19. At all times at issue herein, Plaintiff was a resident of Los Angeles County,
15 California. Plaintiff was employed by Defendant as a non-exempt employee in Los Angeles
16 County, California during the one-year period preceding the filing on this Complaint.

17 20. Plaintiff, like other aggrieved employees, was paid an hourly wage throughout her
18 employment with Defendant.

19 **B. Defendant**

20 21. Defendant is a corporation organized and formed under the laws of the state of
21 Florida, with its principal place of business located in the State of California. Defendant operates
22 throughout California and the acts complained of, which are the subject of this action, occurred,
23 in substantial part, in the State of California.

24 **C. Doe Defendants**

25 22. Except as described herein, Plaintiff is ignorant of the true names of Defendants
26 sued as DOES 1 through 50, inclusive, and the nature of their wrongful conduct, and therefore
27 sues these DOE Defendants by such fictitious names. Plaintiff will seek leave of the Court to
28 amend this complaint to allege their true names and capacities when ascertained.

1 **D. Agency/Aiding And Abetting**

2 23. At all times herein mentioned, Defendants, and each of them, were agents or joint
3 venturers of each of the other Defendants, and in doing the acts alleged herein, were acting
4 within the course and scope of such agency. Each Defendant had actual and/or constructive
5 knowledge of the acts of each of the other Defendants, and ratified, approved, joined in,
6 acquiesced and/or authorized the wrongful acts of each co-Defendant, and/or retained the
7 benefits of said wrongful acts.

8 24. Defendants, and each of them, aided and abetted, encouraged and rendered
9 substantial assistance to the other Defendants in breaching their obligations to Plaintiff and the
10 Class, as alleged herein. In taking action, as particularized herein, to aid and abet and
11 substantially assist the commissions of these wrongful acts and other wrongdoings complained
12 of, each of the Defendants acted with an awareness of his/her/its primary wrongdoing and
13 realized that his/her/its conduct would substantially assist the accomplishment of the wrongful
14 conduct, wrongful goals, and wrongdoing.

15 **FIRST CAUSE OF ACTION**

16 **Failure to Pay Minimum Wage**

17 **On Behalf of Plaintiff, individually, against Defendant and DOES 1-50**
18 **(Violation of California Labor Code § 1197)**

19 25. Plaintiff incorporates by reference each and every preceding paragraph of this
20 complaint as if fully set forth herein.

21 26. As a result of Defendants' failure to pay all wages Plaintiff was owed,
22 Defendants failed to pay Plaintiff the minimum wage fixed by the commission or by state law for
23 all hours Plaintiff worked.

24 27. Plaintiff is entitled to recover the unpaid balance of all minimum wages owed to
25 him under California Labor Code section 1194, as well as liquidated damages, attorneys' fees,
26 costs, interest, and any other awards allowed by the Court pursuant to California Labor Code
27 1197, 1197.1, 1194, and 1194.2.

28 **SECOND CAUSE OF ACTION**

Failure to Pay Overtime

On Behalf of Plaintiff, individually, against Defendant and DOES 1-50
 (Violation of California Labor Code §§ 510 and 1194)

1 28. Plaintiff incorporates by reference each and every preceding paragraph of this
2 complaint as if fully set forth herein.

3 29. Plaintiff regularly worked in excess of 8 hours in a day and/or 40 hours in a
4 week. Defendants failed to pay overtime when Plaintiff worked over 8 hours in a day or 40
5 hours in a week.

6 30. Plaintiff is entitled to recover the unpaid balance of all overtime wages owed to
7 him under California Labor Code section 1194, as well as attorneys' fees, costs, interest, and any
8 other awards allowed by the Court pursuant to California Labor Code 510 and 1194.

9 **THIRD CAUSE OF ACTION**

10 **Failure to Provide Accurate Wage Statements**
11 **On Behalf of Plaintiff, individually, against Defendant and DOES 1-50**
12 **(Violation of California Labor Code § 226)**

13 31. Plaintiff incorporates by reference each and every preceding paragraph of this
14 complaint as if fully set forth herein.

15 32. Labor Code § 226(a) requires employers to furnish semi-monthly, or at the time
16 of each payment of wages, each employee with a statement itemizing, *inter alia*, the gross wages
17 earned and net wages earned. Labor Code § 226(e) provides that if an employer knowingly and
18 intentionally fails to provide a statement itemizing, *inter alia*, the gross wages and net wages
19 earned, then the employee is entitled to recover the greater of all actual damages, or fifty dollars
20 (\$50) for the initial violation and one hundred dollars (\$100) for each subsequent violation up to
21 four thousand dollars (\$4,000).

22 33. Plaintiff did not receive accurate wage statements from Defendants showing all
23 wages earned because Defendants inaccurately reported Plaintiff's hours worked and the rate of
24 pay on her paychecks.

25 34. Defendants knowingly and intentionally failed to furnish Plaintiff with accurate
26 itemized statements showing all amounts owed, as required by Labor Code § 226(a).
27 Accordingly, Defendants have failed to provide Plaintiff accurate wage statements showing all
28 the hours worked and the wages earned. As a result, Defendants are liable to Plaintiff for the
amounts provided by Labor Code § 226.

1 35. As a consequence of Defendants' actions, Plaintiff has been injured and is
2 entitled to all available statutory penalties, costs and reasonable attorneys' fees, including those
3 provided in California Labor Code § 226(e), as well as all other available remedies.

4 **FOURTH CAUSE OF ACTION**

5 **Waiting Time Penalties**

6 **On Behalf of Plaintiff, individually, against Defendant and DOES 1-50**
7 **(Labor Code §§ 201-203)**

8 36. Plaintiff incorporates by reference each and every paragraph of this Complaint as
9 if fully set forth herein.

10 37. Defendants have willfully failed to pay, without abatement, wages owed to
11 Plaintiff upon the termination of Plaintiff's and Defendants' employment relationship.

12 38. Plaintiff's employment relationship with Defendants has terminated.

13 39. It has been more than 30 days since all wages due and owing to Plaintiff upon
14 termination have been due.

15 40. Plaintiff is entitled to continuing wages in an amount not to exceed 30 days
16 because of Defendants' failure to pay all wages owed.

17 **FIFTH CAUSE OF ACTION**

18 **Private Attorneys General Act ("PAGA")**

19 **On Behalf of Plaintiff and all other aggrieved employees, against Defendant**
20 **and DOES 1-50**
21 **(Violation of California Labor Code § 2698 et seq.)**

22 41. Plaintiff is an "aggrieved employee" under PAGA, as she was employed by
23 Defendant during the applicable statutory period and suffered one or more of the Labor Code
24 violations set forth herein. Accordingly, she seeks to recover on behalf of herself and all other
25 current and former aggrieved employees of Defendant, the civil penalties provided by PAGA,
26 plus reasonable attorneys' fees and costs.

27 42. Plaintiff seeks to recover the PAGA civil penalties through a representative action
28 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.

 43. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following
Labor Code provisions:

- 1 a) § 201 (duty to pay all wages earned at time of discharge)
- 2 b) § 202 (duty to pay all wages earned within 72 hours of resignation)
- 3 c) § 203 (liability for wages continues as penalty from date of violation of
- 4 sections 201 or 202 (waiting-time penalty))
- 5 d) § 204 (duty to pay wages earned within prescribed time limit)
- 6 e) § 210 (civil penalty for violations of sections 201.3, 204, 204b, 204.1, 204.2,
- 7 205, 205.5, and 1197.5)
- 8 f) § 226(a) (duty to provide accurate wage statements at time of each wage
- 9 payment)
- 10 g) § 226.3 (civil penalty for violation of 226(a))
- 11 h) § 226.6 (duty for employer and all officers, agents, employees, etc., to refrain
- 12 from knowingly and intentionally violating any provision of section 226)
- 13 i) § 246 (duty to provide paid sick leave to employees)
- 14 j) § 1174 (duty to keep payroll and time records)
- 15 k) § 1174.5 (civil penalty for failure to keep and maintain accurate records)
- 16 l) § 1182.12 (establishing minimum wage for all industries)
- 17 m) § 1194 (duty to pay minimum wage for all hours worked despite an agreement
- 18 to the contrary)
- 19 n) § 1194.2 (employee entitled to liquidated damages for employer's failure to
- 20 pay minimum wages)
- 21 o) § 1197 (duty to pay minimum wages set by IWC)
- 22 p) § 1197.1 (civil penalties and restitution against any employee or person who
- 23 pays or causes to be paid less than minimum wage to an employee)
- 24 q) § 1198 (duty to abide by standard conditions of labor fixed by the IWC)
- 25 r) All related terms, conditions, and labor standards and conditions set forth in
- 26 the California Labor Code and the relevant orders of the IWC, including but not limited to Wage
- 27 Order 1-2001.

28 44. With respect to violations of Labor Code sections 201, 202, and 203, the wages of

1 the employee shall continue as a penalty from the due date thereof at the same rate until
2 paid or until an action therefor is commenced; but the wages shall not continue for more than 30
3 days.

4 45. With respect to violations of Labor Code section 226, Labor Code 226.3 imposes
5 a civil penalty in addition to any other penalty provided by law of \$250 per aggrieved employee
6 for the first violation, and \$1,000 per aggrieved employee for each subsequent violation of Labor
7 Code section 226(a).

8 46. With respect to violations of Labor Code section 1174, Labor Code section
9 1174.5 imposes a civil penalty of \$500.

10 47. With respect to violations of Labor Code section 1197, Labor Code section
11 1197.1 imposes a civil penalty of \$100 for the initial pay period for which the employee is
12 underpaid and \$250 for each subsequent pay period.

13 48. Labor Code section 2699 et seq. imposes a civil penalty of \$100 per pay period,
14 per aggrieved employee for initial violations, and \$200 per pay period, per aggrieved employee
15 for subsequent violations for all Labor Code provisions for which a civil penalty is not
16 specifically provided.

17 49. To the extent applicable, Plaintiff has satisfied the requirements of Labor Code
18 section 2699.3.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff, on behalf of herself and all aggrieved employees, prays for the
21 following judgment against Defendant:

22 A. That the Court find that Defendants have violated Labor Code §§ 201, 202, 203,
23 226, 510, 1194, and 1197 and all applicable IWC Wage Orders;

24 B. That the Court find that Defendants have violated California Labor Code section
25 1194 and 1197 by failing to pay minimum wages to Plaintiff;

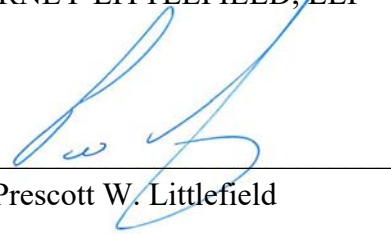
26 C. That the Court find that Defendants have California Labor Code section 510 and
27 1194 by failing to pay overtime wages to Plaintiff;

28 D.

- 1 E. An award of civil penalties pursuant to PAGA;
2 F. An award of reasonable attorneys' fees and costs pursuant to California Labor
3 Code §§ 226, 1194, 2699(g) and/or other applicable law; and
4 G. Such other and further relief that the Court may deem just and proper.

5 Dated: April 6, 2020

KEARNEY LITTLEFIELD, LLP

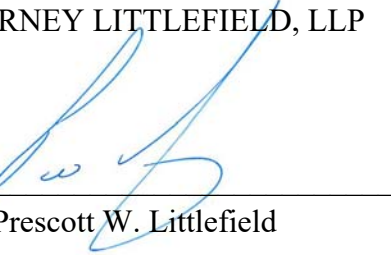
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8 By: 
9 Prescott W. Littlefield

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11 **DEMAND FOR JURY TRIAL**

12 Plaintiff, on behalf of herself and all others similarly situated, hereby requests a jury trial
13 on the claims so triable.

14 Dated: April 6, 2020

KEARNEY LITTLEFIELD, LLP

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17 By: 
18 Prescott W. Littlefield
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