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10 **SUPERIOR COURT OF CALIFORNIA**
11 **FOR THE COUNTY OF YOLO**

12 _____)
CLINT DAVIDSON, as an aggrieved)
13 employee pursuant to the Private)
Attorneys General Act (PAGA),)
14)

15 Plaintiff,

16)
17 vs.)
18)

19 CLARK PACIFIC CORPORATION, a)
California Corporation; CLARK)
20 PACIFIC, a business entity of unknown)
form; ROBERT E. CLARK, an)
21 individual; DONALD G. CLARK, an)
22 individual; and DOES 1 to 20, inclusive,)
23)

Defendants
24 _____

Case No.

COMPLAINT FOR DAMAGES:

**1. Civil Penalties Pursuant to Private
Attorney General Act, Labor Code §
2698 et seq.**

1 Plaintiff CLINT DAVIDSON (“Plaintiff”) hereby files this Complaint against Defendants
2 CLARK PACIFIC CORPORATION., a California Corporation; CLARK PACIFIC, a business
3 entity of unknown form; ROBERT E. CLARK, an individual; DONALD G. CLARK, an
4 individual; and DOES 1 to 20, inclusive, (hereinafter collectively referred to as “Defendants”).
5 Plaintiff alleges the following:

6 **PARTIES AND JURISDICTION**

7 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
8 2004 (“PAGA”), California Labor Code section 2698, *et seq.* to recover civil penalties and any other
9 available relief on behalf of Plaintiff, the State of California, and other current and former employees
10 who worked for Defendants in California and who suffered at least one violation of the Labor Code
11 as set forth in this complaint, at any time between March 23, 2019 and judgement.

12 2. Plaintiff CLINT DAVIDSON is an individual over the age of eighteen (18) and is now
13 and/or at all times mentioned in this Complaint was a resident of the State of California.

14 3. Plaintiff was a non-exempt employee of Defendants from approximately July 1, 2019
15 through February 18, 2020.

16 4. Plaintiff is informed and believes, and thereon alleges, that Defendant CLARK PACIFIC
17 CORPORATION is a California Corporation doing business in California.

18 5. Plaintiff is informed and believes, and thereon alleges, that Defendant CLARK PACIFIC
19 is a business entity of unknown form doing business in California and was the name of the employer
20 listed on wage statements issued to Plaintiff during his employment with Defendants.

21 6. Plaintiff is further informed and believes, and thereon alleges, that Defendant ROBERT
22 E. CLARK was an owner and operator of Defendants CLARK PACIFIC CORPORATION, and
23 CLARK PACIFIC and can be found personally liable for wage and hour violations pursuant to
24 Labor Code section 558.1.

25 7. Plaintiff is further informed and believes, and thereon alleges, that Defendant DONALD
26 G. CLARK was an owner and operator of Defendants CLARK PACIFIC CORPORATION, and
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1 CLARK PACIFIC and can be found personally liable for wage and hour violations pursuant to
2 Labor Code section 558.1.

3 8. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants
4 herein was, at all times relevant to this action, the agent, employee, or joint employer or joint
5 venturer of the remaining defendants and was acting within the course and scope of that relationship.
6 Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants herein
7 gave consent to, ratified and authorized the acts alleged herein to each of the remaining defendants.
8 The true names and capacities of the defendants named herein Does 1 through 20, inclusive, whether
9 individual, corporate, associate, or otherwise are unknown to Plaintiff, who therefore sues such
10 defendants by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff
11 will amend this complaint to show such true names and capacities of Does 1 through 20, inclusive,
12 when they have been determined.

13 9. The Yolo County Superior Court has jurisdiction in this matter under the California
14 Constitution, Article VI, section 10. The statute under which this action is brought does not specify
15 any other basis for jurisdiction.

16 10. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of
17 the wrongful acts and violations of law asserted herein occurred within Yolo County.

18 11. On March 23, 2020, Plaintiff filed his Labor Code § 2699.3 Private Attorney General Act
19 (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”). The
20 LWDA did not respond to Plaintiff’s PAGA notice within 65 days, thus deputizing Plaintiff to
21 represent herself, other aggrieved employees, and the California Labor Commissioner for the
22 purpose of collecting civil penalties for violations of the California Labor Code committed by
23 Defendants.
24

25 12. On May 26, 2020, Plaintiff filed an amended PAGA Notice with the LWDA adding
26 Defendants CLARK PACIFIC, ROBERT E. CLARK, and DONALD G. CLARK.

27 **FACTS COMMON TO ALL CAUSES OF ACTION**
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1 13. Plaintiff worked for Defendants as a non-exempt employee from approximately July 1,
2 2019 to February 18, 2020.

3 14. During his employment, Plaintiff, and other aggrieved employees, were made to suffer
4 numerous violations of the California Labor Code.

5 15. Defendants did not allow Plaintiff and similarly situated employees to take their
6 statutorily required meal and rest periods. Specifically, Plaintiff and similarly situated employees
7 were frequently required to work long hours, often working shifts of ten or twelve hours or longer.

8 16. On these shifts, Plaintiff and similarly situated employees were not provided with second
9 meal periods for shifts worked over 10 hours, and no additional rest period was offered or provided.

10 17. Additionally, Defendants did not maintain a facially compliant policy regarding the
11 provision of meal and rest periods, and meal and rest periods were not provided in compliance with
12 California law.

13 18. Defendants failed to provide Plaintiff and other similarly situated employees a 30-minute,
14 duty-free meal period before the end of the fifth hour of work as required under the law, and a
15 second meal period for each shift worked of ten hour or more. Defendants also failed to provide
16 rest periods to Plaintiff and similarly situated employees for every 4 hours worked or major fraction
17 thereof.

18 19. Defendants also forced Plaintiff and similarly situated employees to clock out to show
19 they took a meal period on time, but were forced to continue working, resulting in both off-the clock
20 time that they were not paid for, and missed meal periods for which they did not receive a meal
21 period penalty payment.

22 20. Defendants also altered Plaintiff's and similarly situated employees' timecards to falsely
23 show meal periods were taken in order to avoid paying a meal period premium.

24 21. Plaintiff is informed and believes that Defendants committed numerous other violations
25 of the California Labor Code, including but not limited to those identified in this letter. Pursuant to
26 *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513
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(2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code, whether he experienced them personally or not.

22. Upon information and belief, all transactions regarding hiring, terminations, promotions, pay increases, etc. relating to Defendants' California employees were submitted to and processed by Defendants' HR department in its corporate headquarters. Additionally, on information and belief, Defendants' corporate records, in particular HR and pay records pertaining to Defendants' California employees, are also maintained at Defendants' corporate headquarters.

23. Upon information and belief, Defendants maintain a central Payroll department at its corporate headquarters which processes payroll for all Defendants' employees, including Plaintiff and similarly situated, aggrieved employees.

24. At all times herein set forth, PAGA provides that any provision of law under the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

25. PAGA defines an aggrieved employee in labor Code section 2699(c) as "any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed."

26. Plaintiff and other current and former employees of Defendants are aggrieved employees as defined by the Labor Code in that they are all Defendants' current or former employees and one or more of the alleged violations was committed against them.

FIRST CAUSE OF ACTION
CIVIL PENALTIES PURSUANT TO PAGA § 2698 ET SEQ.
(As to All Defendants)

27. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 26 as though fully set forth herein.

1 28. Plaintiff brings this cause of action as a proxy for the State of California and in this
2 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of the
3 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
4 violations identified above.

5 29. On or about March 23, 2020, Plaintiff, through counsel, sent written notice to the LWDA
6 regarding Defendant's violations of the California Labor Code, pursuant to Labor Code section
7 2698, *et seq.*, PAGA. On or about May 26, 2020, Plaintiff submitted an amended PAGA Notice
8 adding Defendants CLARK PACIFIC, ROBERT E. CLARK, AND Donald G. CLARK. As of the
9 date of the filing of this Complaint, the LWDA has not informed Plaintiff whether the LWDA
10 intends to investigate Plaintiff's PAGA claims. As such, Plaintiff has exhausted his administrative
11 remedies under PAGA and may proceed in this Court.

12 30. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California and
13 all aggrieved employees for all violations of the Labor Code from March 23, 2019, through trial on
14 this matter.

15 31. Defendants' conduct, as alleged herein, violated various sections of the California labor
16 Code, including but not limited to, the following:

17 32. Labor Code section 1174(d) requires employers to keep "payroll records showing the
18 hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in
19 accordance with rules established for this purpose by the commission, but in any case shall be kept
20 on file for not less than three years." Defendants did not keep accurate information regarding all
21 hours worked by Plaintiff and similarly situated employees, largely by failing to accurately record all
22 time worked on their time records. This is in violation of the Labor Code.

23 33. Labor Code section 226 requires employers to furnish to employees with "an accurate
24 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
25 employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the
26 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
27 written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6)
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1 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and
2 only the last four digits of his or her social security number or an employee identification number
3 other than a social security number, (8) the name and address of the legal entity that is the employer .
4 . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number
5 of hours worked at each hourly rate by the employee” For the reasons stated above, Defendants
6 failed to comply with these requirements with respect to Plaintiff and similarly situated employees in
7 violation of the Labor Code.

8
9 34. Labor Code sections 510 and 1194 require employers to pay employees overtime for any
10 work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any
11 one workweek. Employers must also pay overtime for the first eight (8) hours worked on the
12 seventh day of work in any one workweek. Finally, employers must pay double time for all hours
13 worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8)
14 hours on the seventh day of work in any one workweek. As stated above, Plaintiff and similarly
15 situated employees worked over eight (8) hours per day and forty (40) hours per week and were not
16 paid all overtime wages due. This is in violation of the Labor Code.

17 35. During the period Plaintiff and similarly situated employees were employed by
18 Defendants they were entitled to be paid at least the State’s minimum wage rate for each hour that
19 they worked. *See, e.g.,* IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001,
20 section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay
21 Plaintiff and similarly situated employees at least minimum wage for all hours worked. Thus,
22 Plaintiff and similarly situated employees were not paid at least the applicable state minimum wage
23 for all hours worked in violation of the Labor Code. This is in violation of the Labor Code.

24 36. Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require
25 employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For
26 the reasons stated above, Plaintiff and similarly situated employees were not authorized and
27 permitted to take legally compliant meal periods pursuant to California law. This is in violation of
28 the Labor Code.

1 37. Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require
2 employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or
3 major fraction thereof worked. For the reasons stated above, Plaintiff and similarly situated
4 employees were not authorized and permitted to take legally compliant rest periods pursuant to
5 California law in violation of the Labor Code. Defendants also failed to pay any rest period
6 premiums for their failure to provide rest periods. This is in violation of the Labor Code.

7 38. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal.
8 Rptr. 3d 502, 513 (2018), Plaintiff seeks civil penalties on behalf of the State of California and all
9 aggrieved employees for all violations of the California Labor Code, whether he experienced them
10 personally or not.

11 **DAMAGES**

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

- 13 1. For civil penalties under the California Labor Code according to proof allowed by law;
14 2. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's
15 fees;
16 3. For injunctive relief;
17 4. For an award of prejudgment and post-judgment interest; and
18 5. For an award to Plaintiff of such other and further relief as the Court deems just and
19 proper.
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21 Dated: May 29, 2020

22 **Castle Law: California Employment Counsel**

23 By:  _____
24

25 Timothy B. Del Castillo

26 Kent L. Bradbury

27 Attorneys for Plaintiff CLINT DAVIDSON
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