

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 7/16/2020 4:44 PM
Reviewed By: R. Walker
Case #20CV366143
Envelope: 4613236**

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
POLARIS LAW GROUP LLP
501 San Benito Street, Suite 200
Hollister, CA 95023
Tel: (831) 531-4214
Fax: (831) 634-0333

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

MENCHILA VILLARUBIA WOODALL,
as an individual and on behalf of all others
similarly situated,

Plaintiffs,

vs.

VASONA MANAGEMENT, INC., an
California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 20CV366143

(Assigned to the Honorable Patricia M. Lucas,
Dept. 3)

**FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

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

DEMAND OVER \$25,000.00

1 Plaintiff Menchila Villarubia Woodall (“Plaintiff”) hereby submits this First Amended
2 Complaint (“Complaint”) against Defendant Vasona Management, Inc. (“Defendant”) and Does
3 1 through 50 (hereinafter collectively referred to as “Defendants”) on behalf of herself and the
4 class of all other similarly situated current and former employees of Defendant, for penalties for
5 failure to provide accurate itemized wage statements under the California Labor Code as follows:

6 **INTRODUCTION**

7 1. This action is within the Court’s jurisdiction under California Labor Code
8 sections 226 and 2698, *et seq.* and the applicable Wage Orders of the California Industrial
9 Welfare Commission (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendant.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide complete and accurate wage
15 statements to Plaintiff and aggrieved employees.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 have engaged in, among other things a system of willful violations of the California Labor Code
18 and the applicable IWC Wage Orders by creating and maintaining policies, practices, and
19 customs that knowingly deny its employees the above stated rights and benefits.

20 5. The policies, practices and customs of defendants described above and below
21 have resulted in unjust enrichment of Defendants and an unfair business advantage over
22 businesses that routinely adhere to the strictures of the California Labor Code.

23 **JURISDICTION AND VENUE**

24 6. The Court has jurisdiction over the violations of the California Labor Code
25 sections 226 and 2698, *et seq.*

26 7. Venue is proper because Defendant does business in Santa Clara County and
27 Plaintiff worked for Defendant in Gilroy, California.

28 //

1 **PARTIES**

2 8. Plaintiff was employed by Defendant as an on-site manager from in or around
3 2004 until on or about December 31, 2019.

4 9. Plaintiff was and is the victim of the policies, practices, and customs of
5 Defendants complained of in this action in ways that have deprived her of the rights guaranteed
6 by California Labor Code sections 226 and 2698, *et seq.*

7 10. Plaintiff is informed and believes and based thereon alleges Defendant Vasona
8 Management, Inc. was and is a California corporation doing business in the State of California
9 providing construction services in Southern California.

10 11. Plaintiff is informed and believes and thereon alleges that at all times herein
11 mentioned DOES 1 through 50, are and were corporations, business entities, individuals, and
12 partnerships, licensed to do business and actually doing business in the State of California.

13 12. As such, and based upon all the facts and circumstances incident to Defendants'
14 business, Defendants are subject to California Labor Code sections 226 and 2698, *et seq.*

15 13. Plaintiff does not know the true names or capacities, whether individual, partner
16 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
17 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
18 complaint when the true names and capacities are known. Plaintiff is informed and believes and
19 based thereon alleges that each of said fictitious defendants were responsible in some way for the
20 matters alleged herein and proximately caused Plaintiff and members of the general public and
21 class to be subject to the illegal employment practices, wrongs, and injuries complained of
22 herein.

23 14. At all times herein mentioned, each of said defendants participated in the doing of
24 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
25 Defendants, and each of them, were the agents, servants and employees of each of the other
26 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
27 acting within the course and scope of said agency and employment.

28 //

15. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

16. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

17. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, ET SEQ.

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

18. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

19. Plaintiff brings this cause of action on behalf of the State of California and seeks penalties on behalf of all aggrieved employees from April 7, 2019, through the present, for Defendant's violations of Labor Code section 226.

20. Defendant failed in its affirmative obligation to provide accurate itemized wage statements. Specifically, the wage statements provided to Plaintiff and Aggrieved Employees failed to identify all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate as required by Labor Code section 226(a)(9).
2 Whenever overtime wages were paid, the wage statements issued to Plaintiff and Aggrieved
3 Employees did not identify the overtime rate of pay. Rather, the wage statements only identified
4 the base rate of pay.

5 21. On or about April 7, 2020, Plaintiff sent written notice to the California Labor &
6 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code section
7 226, pursuant to Labor Code section 2698 *et seq.*, the Private Attorneys General Act ("PAGA").

8 22. On June 5, 2020, the LWDA provided notice to Plaintiff that it would not make
9 any findings as to the merits of the alleged violation of Labor Code §226(a)(9) that Plaintiff
10 asserted in her written notice to the agency.

11 23. Pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all
12 applicable civil penalties for Defendant's violation of Labor Code section 226(a), for the time
13 period described above, on behalf of herself and other Aggrieved Employees.

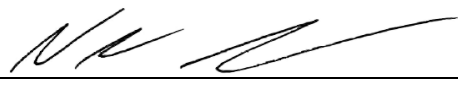
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
16 this suit is brought against Defendants, jointly and severally, as follows:

- 17 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
18 Labor Code section 2698 *et seq.*, and for costs and attorneys' fees;
19 2. On all causes of action for attorneys' fees and costs as provided by California
20 Labor Code section 2699, and Code of Civil Procedure section 1021.5; and
21 3. For such other and further relief that the Court may deem just and proper.
22

23 DATED: July 16, 2020

DIVERSITY LAW GROUP, P.C.

24 By: 
25 _____

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

26 Attorneys for Plaintiff and the Class
27
28

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

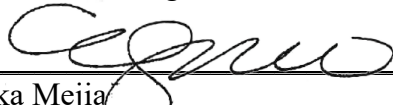
7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On July 16, 2020, I served the following document(s) described as: **FIRST**
11 **AMENDED COMPLAINT FOR DAMAGES** on the interested parties in this action as
12 follows:

13 Sonia S. Shah
14 Servando R. Sandoval
15 Pahl & McCay
16 225 W. Santa Clara Street, Suite 1500
17 San Jose, California 95113
18 *Attorneys for Defendant Vasona Management, Inc.*

19 X BY MAIL: by placing _____ the original or X a true and correct
20 copy thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the
21 attached mailing list. I am readily familiar with the firm's practice for collection and processing
22 of correspondence and other materials for mailing with the United States Postal Service. On this
23 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for
24 collection and mailing on this date at the address above following our office's ordinary business
25 practices. The envelope(s) will be deposited with the United States Postal Service on this date,
26 in the ordinary course of business.

27 I declare under penalty of perjury under the laws of the State of California that the
28 above is true and correct. Executed on July 16, 2020, at Los Angeles, California.

29 
30 _____
31 Erika Mejia