

01/15/2021

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Attorneys for Plaintiffs,
 JHONNATAN ROQUE and OSCAR MACKORTHY, on behalf of themselves and all others similarly
 aggrieved employees,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JHONNATAN ROQUE, AN INDIVIDUAL
 AND OSCAR MACKORTHY, an individual, on
 behalf of themselves and all others similarly
 situated;

Plaintiffs,

v.

GREEN FARMS CALIFORNIA, LLC, a
 California limited liability company, and DOES 1
 through 50 inclusive,

Defendants.

Case No.: 20STCV27032

FIRST AMENDED COMPLAINT

1. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq.;

Complaint Filed: July 17, 2020
 Trial Date: Not Set Yet

1 Plaintiffs JHONNATAN ROQUE and OSCAR MACKORTHY on behalf of themselves and all
2 others similarly situated, complain and allege as follows:

3 I.

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiffs JHONNATAN ROQUE (hereinafter
6 “Roque”) and OSCAR MACKORTHY (hereinafter “Mackorthy”)(Plaintiff Roque and Plaintiff
7 Mackorthy are hereinafter collectively referred to as “Plaintiffs”) and the similarly Aggrieved Employees
8 they seeks to represent, as defined herein, as all non-exempt employees employed by or formerly
9 employed by Defendant GREEN FARMS CALIFORNIA, LLC, a California limited liability company.
10 (herein referred to as “Defendant” or “GFC”). The Aggrieved Employees consists of all non-exempt
11 employees employed by or formerly employed by Defendant within the State of California who are
12 California Citizens at the time of the filing of this Complaint. The term “Liability Period” or “Time
13 Period” is defined as one (1) year prior to the filing of Plaintiffs’ administrative complaint with the Labor
14 and Workforce Development Agency (LWDA) through the present. Plaintiffs filed their administrative
15 complaint with the LWDA on April 3, 2020. The “Liability Period” or “Relevant Time Period” is from
16 April 3, 2019 to the Present. Plaintiffs reserve the right to amend this complaint to reflect a different
17 “Time Period” or modify the definition of “Aggrieved Employees” as further discovery is conducted.

18 2. Plaintiffs individually, and on behalf the Aggrieved Employees they seeks to represent,
19 seeks relief against Defendant for violation of the Private Attorneys’ General Act, Labor Code § 2698
20 et seq. stemming from Defendant’s (1) failure to pay all wages due, including minimum, regular, and
21 overtime wages as a result of Defendant’s policy of improperly paying its non-exempt hourly
22 employees; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to provide
23 accurate wage statements; and (5) failure to pay wages upon ending employment of terminated or
24 resigned employees. Plaintiffs further seek equitable remedies in the form of declaratory relief.

25 3. At all relevant times herein, Defendant, has consistently maintained and enforced against
26 Aggrieved Employees the unlawful practices and policies described herein.

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II.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the causes of action alleged in this Complaint because the Court is a court of general subject matter jurisdiction and is not otherwise excluded from exercising subject matter jurisdiction over said causes of action.

5. Venue is proper in this Judicial district and the County of Los Angeles, because the Defendant maintained its location and transacts business in this county, the obligations and liability arise in this county, and work was performed by Plaintiffs and members of the proposed Aggrieved Employees made the subject of this action in the County of Los Angeles, California.

6. The California Superior Court has jurisdiction in the matter because the individual claims are under the Seventy-Five Thousand Dollar (\$75,000.00) jurisdictional threshold for Federal Court and upon information and belief Plaintiffs are residents of and/or domiciled in the State of California.

7. Further, there is no federal question at issue as the issues herein is based solely on California Statutes and law including the California Labor Code, Industrial Welfare Commission Wage Orders, *Code of Civil Procedure*, *Rule of Court*, and/or *Business and Professions Code*.

III.

THE PARTIES

A. The Plaintiffs

8. Plaintiff JHONNATAN ROQUE at various relevant times herein, was an employee of the Defendant and entitled to compensation for all hours worked, minimum and overtime compensation, meal and rest premiums, and penalties from Defendant. Plaintiff was employed by the Defendant from on or about August 8, 2018 through March 26, 2020, in the County of Los Angeles at various times herein relevant. Plaintiff was employed by the Defendant during the Liability Period as a driver in a non-exempt hourly position.

9. Plaintiff OSCAR MACKORTHY at various relevant times herein, was an employee of the Defendant and entitled to compensation for all hours worked, minimum and overtime compensation, meal and rest premiums, and penalties from Defendant. Plaintiff was employed by the Defendant from on or about January 25, 2018 through March 20, 2020, in the County of Los Angeles at various times

herein relevant. Plaintiff was employed by the Defendant during the Liability Period as a driver in a non-exempt hourly position.

10. Each of the Aggrieved Employees members are identifiable, current and/or formerly similarly situated persons who were employed in non-exempt hourly positions in California for the Defendant during the Liability Period.

B. The Defendants

11. Plaintiffs are informed and believe, and based thereon allege that, GREEN FARMS CALIFORNIA, LLC, (hereinafter “GFC”) is a California limited liability company, and a food distribution company doing business in the state of California, and is and/or was the employer of the Plaintiffs and Aggrieved Employees during the Liability Period. Defendant GFC maintains its principal place of business at 2652 Long Beach Ave, Vernon, CA 90058, where Plaintiffs worked. During the Liability Period, Defendant employed Plaintiffs and similarly situated persons and failed to pay Plaintiffs and Aggrieved Employees for all hours worked including minimum wage and/or overtime wages, failed to provide lawful meal and rest periods or compensation in lieu thereof, failed to provide accurate itemized wage statements, and failed to pay due and owing wages upon ending of employment for employees within California. On information and belief and based thereon alleges that Defendant GFC is conducting business in good standing in California.

12. Under California Corporations Code § 17710.09, “...All debts, liabilities, and obligations of the converting entity or the converting limited liability company continue as debts, liabilities, and obligations of the converted entity or converted limited liability company.” On September 25, 2019, the entity formerly known as Green Farms, Inc., a California Corporation, converted to a limited liability company known as GREEN FARMS CALIFORNIA, LLC, Defendant in this matter. Defendant GREEN FARMS CALIFORNIA, LLC, is a successor-by-conversion to Green Farms, Inc..

13. Plaintiffs are ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50, inclusive, but on information and belief allege that said Defendants are legally responsible for (1) failure to pay all wages due; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to provide accurate wage statements; and (5) failure to pay wages upon ending employment to Plaintiffs and the Aggrieved Employees by virtue of their unlawful practices, and therefore sue these Defendants

1 by such fictitious names. Plaintiffs will amend this complaint to allege the true names and capacities of
2 the DOE Defendants when ascertained.

3 14. Plaintiffs are informed and believe, and based thereon alleges, that each Defendant acted
4 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
5 business plan or policy in all respects pertinent hereto, and the acts of each Defendant legally attributable
6 to the other Defendant.

7 15. Plaintiffs are informed and believe, and based thereon alleges, that each Defendant acted
8 in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent,
9 and/or principal of the co-defendants, and in performing the actions mentioned below was acting, at
10 least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint
11 venture, single enterprise, joint employer employee, alter-ego, managing agent, and/or principal with
12 the permission and consent of the co-Defendants. Plaintiffs also allege the acts of each Defendant are
13 legally attributable to the other defendants.

14 16. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants
15 sued herein was, at all relevant times hereto, the employer, owner, shareholder, principal, joint venture,
16 proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer and/or
17 alter-ego of the remaining defendants, and was acting, at least in part, within the course and scope of
18 such employment and agency, with the express and implied permission, consent and knowledge,
19 approval and/or ratification of the other defendants. The above co-defendants, managing agents, and
20 supervisors aided, abetted, condoned, permitted, approved, authorized and/or ratified the unlawful acts
21 described herein.

22 IV.

23 **ADMINISTRATIVE PREREQUISITE**

24 17. Prior to filing this Complaint, On April 3, 2020, Plaintiffs gave written notice by
25 electronic filing to the Labor Workforce Development Agency ("LWDA") (LWDA Case No. LWDA-
26 CM- 781707-20) and by certified mail to Defendant GFC, of the specified provisions alleged to have
27 been violated, including the facts and theories to support the alleged violations as required by Labor
28 Code section 2699.3.

18. A true and correct copy of Plaintiffs' letter sent to the LWDA and the amendments

thereafter sent to Defendant, dated April 3, 2020, is attached hereto as “**Exhibit A**” As of the filing of this complaint, LWDA has not responded.

19. “...The statute of limitations on Plaintiffs' PAGA claims is one year. (*See Moreno v. Autozone, Inc.*, No. 05–04432–MJJ, 2007 WL 1650942, at *2) (N.D.Cal. June 5, 2007.)) PAGA itself provides that the statute of limitations is tolled while a plaintiff exhausts his administrative remedies with California's Labor and Workforce Development Agency (LWDA) prior to suit, which is required by the statute. See Cal. Labor Code § 2699.3(d).” (*Ramirez v. Ghilotti Bros. Inc.*, 941 F.Supp.2d 1197, 1209 (2013.))

20. Under Labor Code Section 2699.3(a), a plaintiff may bring a cause of action under PAGA only after giving notice to the Labor Workforce Development Agency (“LWDA”) and the employer of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate, or after 65 days have passed without notice.

21. More than sixty-five (65) days have passed since Plaintiffs submitted notice to the LWDA and Defendant of the specific alleged Labor Code violations and the LWDA has not provided notice to Plaintiffs of its intent to investigate such alleged violations. Plaintiffs further have received no notice of Defendant’s intent to cure any of the alleged violations. Therefore, Plaintiffs have satisfied the administrative prerequisites for filing this action.

V.

GENERAL ALLEGATIONS

22. California *Labor Code* § 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of their overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.

23. During all, or a portion of the Liability Period, Plaintiffs and each member of the Aggrieved Employees was employed by Defendant and each of them, in the State of California. Plaintiffs and each of the Aggrieved Employees members were non-exempt employees covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and *Labor Code* § 510, and/or other applicable wage orders, regulations and statutes, and each Aggrieved Employees member was not subject to an exemption for executive, administrative and professional employees, which imposed obligations on the

part of the Defendant to pay Plaintiffs and Aggrieved Employees members lawful overtime compensation. Plaintiffs and Aggrieved Employees were covered by one or more Industrial Welfare Commission (IWC) Wage Orders, and *Labor Code* § 226.7 and other applicable wage orders, regulations and statutes which imposed an obligation on the part of the Defendant to pay Plaintiffs and Aggrieved Employees rest and meal period compensation.

24. During the Liability Period, Defendant was obligated to pay Plaintiffs and Aggrieved Employees Members for all hours worked. Defendant was obligated to pay Plaintiffs and Aggrieved Employees Members minimum wages and overtime compensation for all hours worked over eight (8) hours of work in one (1) day or forty (40) hours in one (1) week and double-time for hours worked in excess of twelve (12) in one day.

25. Plaintiffs and each Aggrieved Employee primarily performed non-exempt work in excess of the maximum regular rate hours set by the IWC in the applicable Wage Orders, regulations or statutes, and therefore entitled the Plaintiffs and Aggrieved Employees members to overtime compensation at time and a half rate, and when applicable, double time rates as set forth by the applicable Wage Orders, regulations and/or statutes.

26. During the Liability Period, the Defendant and each of them, failed to include all remuneration paid to Plaintiffs and similarly Aggrieved Employees when computing their hourly non-exempt employees' regular rate of pay resulting from Defendant's failure to do a weighted average and include all remuneration paid to hourly non-exempt employees for non-discretionary bonus, shift differential premium, and other types of remuneration, which are not statutory exclusions when calculating hourly non-exempt employees' regular rate for purposes of overtime payments. Defendant's conduct resulted in failure to compensate the employees properly for all the time they have actually worked, in violation of the various applicable Wage Orders, regulations and statutes, and the Defendant: (1) Willfully failed and refused, and continues to fail and refuse to pay compensation for all hours worked, including minimum wage and/or lawful overtime compensation to the Aggrieved Employees Members; and (2) willfully failed and refused, and continues to fail and refuse to pay due and owing wages promptly upon termination of employment to Plaintiffs and Aggrieved Employees Members.

27. During the Liability Period, the Defendant and each of them, as a result of Defendant's failure to provide Plaintiffs and Aggrieved Employees with all wages earned as described herein, also

1 failed to provide Plaintiffs and Aggrieved Employees with accurate itemized wage statements listing the
2 accurate gross wages earned, total hours worked, net wages earned, and all applicable hourly rates and
3 the corresponding number of hours worked at each hourly rate by the employee. Further, Defendant
4 failed to list the accurate name of the employer on wage statements provided to Plaintiffs and Aggrieved
5 Employees for pay periods commencing on September 25, 2019. On September 25, 2019, Defendant
6 converted from a corporation named "Green Farms, Inc.", to a limited liability company named "Green
7 Farms California, LLC." Defendant failed to list "Green Farms California, LLC" as the true and correct
8 employer on Plaintiffs' and similarly Aggrieved Employees' pay stubs as of September 25, 2019, or any
9 time thereafter.

10 28. During the Liability Period, Defendant was obligated to provide Plaintiffs and Aggrieved
11 Employees with a timely work free meal and/or rest period(s). During the Liability Period, Defendant,
12 and each of them failed and/or refused to schedule Plaintiffs and Aggrieved Employees in an overlapping
13 manner so as to reasonably provide lawful and timely uninterrupted meal and/or rest breaks and/or shift
14 relief for Plaintiffs and Aggrieved Employees, thereby causing members of the Aggrieved Employees to
15 work without being given paid ten (10) minute rest periods for every four (4) hours or major fraction
16 thereof worked and without being given a timely thirty (30) minute meal period for shifts of at least five
17 (5) hours and a second thirty (30) minute meal period for shifts of at least ten (10) hours during which
18 Aggrieved Employees was relieved of all duties and free to leave the premises. Defendant further failed
19 and/or refused to schedule Plaintiffs and Aggrieved Employees in an overlapping manner and/or provide
20 shift relief for Plaintiffs and Aggrieved Employees so as to reasonably ensure lawful meal and/or rest
21 breaks were taken within the required statutory time frame as required by law. Furthermore, Defendant
22 failed and/or refused to pay any Aggrieved Employees one (1) hour's pay at the employees' regular rate
23 of pay as premium compensation for failure to provide lawful rest and/or meal periods or to providing
24 such uninterrupted rest and/or meal periods within the statutory time frame as a result of their scheduling
25 policy.

26 29. Aggrieved Employees who ended their employment during the Liability Period but were
27 not paid the above due compensation timely upon the termination of their employment as required by
28 *Labor Code* §§ 201-203 and are entitled to penalties as provided by *Labor Code* § 203.

VI.

1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEYS' GENERAL ACT ("PAGA")**
3 **(LABOR CODE § 2698 ET SEQ.)**
4

5 **(Plaintiffs and Aggrieved Employees against Defendant GFC, and Does 1 – 50 inclusive)**

6 30. Since the LWDA has not indicated that it will be investigating and more than 65 days
7 have passed since Plaintiffs mailed their letter, and because Defendant took no corrective action to
8 remedy the allegations set forth herein, Plaintiffs, as representatives of the people of the State of
9 California, will seek any and all penalties otherwise capable of being collected by the Labor Commission,
10 the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the
11 following, as set forth in Labor Code section 2699.5, which provides that section 2699.3(a) applies to
12 any alleged violation of the provisions discussed herein.

13 31. Plaintiffs by virtue of their employment with Defendant are aggrieved employees with
14 standing to bring an action under the PAGA. Plaintiffs have satisfied all prerequisites to serve as
15 representatives of the general public to enforce California's labor laws, and the penalty provisions
16 identified in Labor Code section 2699.5.

17 32. Plaintiffs are informed and believe that Defendant has violated and continues to violate
18 provisions of the California Labor Code and applicable Wage orders related to the payment of minimum
19 wages including overtime, failure to provide meal and rest periods or premium compensation in lieu
20 thereof, failure to pay all wages upon end of employment, and failure to provide complaint wage
21 statements.

22 33. Plaintiffs, as representatives of the people of the State of California, will seek any and all
23 penalties otherwise capable of being collected by the Labor Commission, the LWDA and/or the DLSE.
24 This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section
25 2699.3(a) applies to any alleged violation of the following provisions: 201-203, 226, 226.7, 510, 512,
26 1174 and 1194.

27 34. Plaintiffs, are personal representatives of the general public, will and do seek to recover
28 any and all penalties for each and every violation shown to exist or to have occurred during the Liability
period, in an amount according to proof, as to those penalties that are otherwise only available to public

1 agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at
2 least 75% of the penalties recovered being reimbursed to the LWDA.

3 35. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs
4 pursuant to Labor Code sections 2699(g)(1), 218.5, 1194, and prejudgment interest.

5 **a. Violation of PAGA for Failure to Pay Minimum and Overtime Wages.**

6 36. Plaintiffs and Aggrieved Employees re-allege and incorporate by reference the allegations
7 in the preceding paragraphs.

8 37. Plaintiffs and Aggrieved Employees members regularly worked over eight (8) hours per
9 day and forty (40) hours per week. Defendant failed to pay Plaintiffs, and Aggrieved Employees members
10 minimum wage for all hours worked and overtime premium for hours worked in excess of over eight (8)
11 hours per day and forty (40) hours per week for work performed for the Defendant. Defendant willfully
12 violated the Labor Code when Defendant failed to pay Plaintiffs and Aggrieved Employees the legally
13 mandated wage rates for all hours worked. During the Liability Period, the Defendant and each of them,
14 failed to include all remuneration paid to Plaintiffs and similarly Aggrieved Employees when computing
15 their hourly non-exempt employees' regular rate of pay resulting from Defendant's failure to do a
16 weighted average and include all remuneration paid to hourly non-exempt employees for non-
17 discretionary bonus, shift differential premium, and other types of remuneration, which are not statutory
18 exclusions when calculating hourly non-exempt employees' regular rate for purposes of overtime
19 payments. Defendant's conduct resulted in failure to compensate the employees properly for all wages
20 earned.

21 38. Plaintiffs individually, and on behalf of the Aggrieved Employees, requests recovery of
22 statutory penalties against the Defendant and each of them, pursuant to PAGA for failure to pay all wages
23 pursuant to Labor Code sections 510 and 1194 during the Liability Period, in a sum as provided by the
24 Labor Code and/or other statutes.

25 **b. Violation of PAGA for Failure to Provide Meal Periods or Compensation in Lieu Thereof.**

26 39. The Plaintiffs and Aggrieved Employees re-allege and incorporate by reference all the
27 above paragraphs of this complaint as if fully alleged herein.

28 40. Labor Code sections 226.7 and 512 provide that no employer shall employ any person
for a work period of more than five (5) hours without providing a meal period of not less than thirty (30)

1 minutes or employ any person for a work period of more than ten (10) hours without a second (2nd) meal
2 period of not less than thirty (30) minutes.

3 41. Labor Code section 226.7 provides that if an employer fails to provide an employee a
4 meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at
5 the employee's regular rate of compensation for each workday that the meal period is not provided in
6 accordance with this section.

7 42. Defendant failed to schedule Plaintiffs and similarly situated persons in an overlapping
8 manner so as to reasonably ensure that Plaintiffs and Aggrieved Employees could take and/or receive
9 such meal periods uninterrupted and within the statutory timeframe. As a result, Plaintiffs and
10 Aggrieved Employees were often forced to forego a timely uninterrupted meal period and/or work
11 during their meal period. In so doing, Defendant has intentionally and improperly denied timely
12 uninterrupted meal periods to the Plaintiffs and Aggrieved Employees in violation of Labor Code
13 sections 226.7 and 512 and other regulations and statutes.

14 43. At all times relevant hereto, Plaintiffs and Aggrieved Employees have worked more than
15 five (5) hours in a workday.

16 44. At varying times relevant hereto, Plaintiffs and Aggrieved Employees have worked more
17 than ten (10) hours in a workday.

18 45. At all times relevant hereto, the Defendant failed to schedule Plaintiffs and similarly
19 situated persons in a manner so as to reasonably provide timely uninterrupted thirty (30) minute meal
20 and/or work free meal period as required by Labor Code sections 226.7 and 512.

21 46. By virtue of the Defendant's failure to schedule Plaintiffs and Aggrieved Employees in
22 such a way as to provide a timely and uninterrupted meal period, and/or work free meal period to the
23 Plaintiffs and Aggrieved Employees, thereby causing Plaintiffs and Aggrieved Employees to suffer, and
24 will continue to suffer, damages in the amounts which is presently unknown, but which exceed the
25 jurisdictional limits of this Court and which will be ascertained according to proof at trial.

26 47. Plaintiffs individually, and on behalf of the Aggrieved Employees, requests recovery of
27 statutory penalties against the Defendant and each of them, pursuant to PAGA for failure to provide
28 meal period compensation pursuant to Labor Code sections 226.7 and 512 during the Liability Period,
in a sum as provided by the Labor Code and/or other statutes.

1 **c. Violation of PAGA for Failure to Provide Rest Periods or Compensation in Lieu Thereof.**

2 48. The Plaintiffs and Aggrieved Employees re-allege and incorporate by reference all the
3 above paragraphs of this complaint as if fully alleged herein.

4 49. Labor Code section 226.7 provides that employers authorize and permit all employees to
5 take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction
6 thereof.

7 50. Labor Code section 226.7(b) provides that if an employer fails to provide and employee
8 rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay
9 at the employees' regular rate of compensation for each workday that the rest period is not provided.

10 51. Defendant failed and or refused to implement a relief system by which Plaintiffs and
11 Aggrieved Employees could receive rest breaks and/or work free rest breaks. Furthermore, due to
12 Defendant's relief system, Plaintiffs and Aggrieved Employees did not receive their rest breaks within
13 the required statutory time frame. By and through their actions, Defendant intentionally and improperly
14 denied rest periods to the Plaintiffs and Aggrieved Employees in violation of Labor Code sections 226.7
15 and 512.

16 52. At all times relevant hereto, the Plaintiffs and Aggrieved Employees, have worked more
17 than four (4) hours in a workday.

18 53. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiffs and
19 Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiffs and Aggrieved
20 Employees have suffered, and will continue to suffer, damages in amounts which are presently
21 unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained
22 according to proof at trial.

23 54. Plaintiffs individually, and on behalf of the Aggrieved Employees, requests recovery of
24 statutory penalties against the Defendant and each of them, pursuant to PAGA for failure to provide
25 rest period compensation pursuant to Labor Code section 226.7 during the Liability Period, in a sum as
26 provided by the Labor Code and/or other statutes.

27 **d. Violation of PAGA for Failure to Provide Accurate Wage Statements.**

28 55. Plaintiffs and Aggrieved Employees re-allege and incorporate by reference the
allegations in the preceding paragraphs.

1 56. Labor Code sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage Order
2 provides that employers must keep records and provide employees with itemized wage statements
3 showing total hours worked and each applicable rate of pay in effect during the pay period with the
4 corresponding number of hours worked at each hourly rate.

5 57. Labor Code section 226, subdivision (a), requires an employer provide employees-either
6 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when
7 wages are paid by personal check or cash-an accurate itemized wage statement in writing showing: "(1)
8 gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5) net wages, (6) the
9 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
10 last four digits of his or her social security number or an employee identification number other than a
11 social security number, (8) the name and address of the legal entity that is the employer, and (9) all
12 applicable hourly rates in effect during the pay period and corresponding number of hours worked at
13 each hourly rate by the employee"
14

15 58. Labor Code section 226.2, subdivision (a)(2), requires the itemized statements required
16 by subdivision (a) of section 226 shall, in addition to the other items specified in that subdivision, state
17 the following: total hours of compensable rest and recovery periods, the rate of compensation for every
18 hour worked, the number of hours worked at each rate of compensation, and the gross and net wages
19 paid for those periods during the pay period, and the true name of the employer.

20 59. Defendant willfully violated Labor Code section 226(a) by failing to provide Plaintiffs
21 and Aggrieved Employees with wage statements that accurately reflect the total hours worked, the
22 accurate rate of pay for each hour worked, accurate net and gross wages earned, and accurate name of
23 the legal entity that is the employer.

24 60. Defendant willfully violated Labor Code section 226(a) by failing to list the correct name
25 and address of the legal entity that is the employer. On September 25, 2019, Defendant converted the
26 legal entity that is the employer from "Green Farms, Inc." to "Green Farms California LLC" but failed
27 to list "Green Farms California, LLC" as the employer on Employees' and other similarly aggrieved
28 coworker's wage statements.

1 61. Lab. Code, § 226, subdivision (a) states that, “every employer shall, semimonthly or at
2 the time of each payment of wages, furnish each of his or her employees, either as a detachable part of
3 the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal
4 check or cash, an accurate itemized statement in writing ...”

5 62. IWC Wage Order Number 9-2001, paragraph 7(a) requires that every employer shall
6 keep accurate information with respect to each employee, including time records showing when each
7 employee begins and ends each work period, the total daily hours worked by each employee and the
8 total hours worked in each payroll period, applicable rates of pay, and net and gross wages earned.

9 63. Plaintiffs are informed, and believe that Defendant willfully and intentionally failed to
10 make and/or keep records which accurately reflect the accurate net and gross wages earned, and accurate
11 rate of pay for each hour worked by Plaintiffs and Aggrieved Employees who were not paid all wages
12 due them, including but not limited to minimum and/or overtime wages as a result of Defendant’s failure
13 to include all remuneration paid to Plaintiffs and similarly Aggrieved Employees when computing their
14 hourly non-exempt employees’ regular rate of pay resulting from Defendant’s failure to do a weighted
15 average and include all remuneration paid to hourly non-exempt employees for non-discretionary bonus,
16 shift differential premium, and other types of remuneration, which are not statutory exclusions when
17 calculating hourly non-exempt employees’ regular rate for purposes of overtime payments resulting in
18 failure to compensate the employees properly for all the time they have actually worked.

19 64. Plaintiffs are informed and believes that Defendant’s failure to keep accurate payroll
20 records, as described above, violated Lab. Code, § 1174, subdivision (d) and the applicable wage order.

21 65. Plaintiffs individually, and on behalf of the Aggrieved Employees, requests recovery of
22 statutory penalties against the Defendant and each of them, pursuant to PAGA for failure to provide
23 accurate itemized wage statements pursuant to Labor Code sections 226 and 226.2 during the Liability
24 Period, in a sum as provided by the Labor Code and/or other statutes.

25
26 **e. Violation of PAGA for Failure to Pay Wages Upon Ending Employment.**

27 66. Plaintiffs and Aggrieved Employees re-allege and incorporate by reference, as though
28 fully set forth herein, the above paragraphs in their entirety as if fully alleged herein.

67. Plaintiffs and certain members of the Aggrieved Employees who ended their employment with Defendant during the Liability Period, were entitled to be promptly paid both minimum wage and lawful overtime compensation and other premiums, as required by *Labor Code* §§ 201-203. Defendant refused and/or failed to promptly compensate Plaintiffs and Aggrieved Employees wages owed as a result of their failure to pay Plaintiffs and Aggrieved Employees minimum wage, overtime, and premium compensations.

68. Plaintiffs individually, and on behalf of the Aggrieved Employees, requests recovery of statutory penalties against the Defendant and each of them, pursuant to PAGA for failure to pay wages due upon end of employment pursuant to Labor Code sections 201 - 203 during the Liability Period, in a sum as provided by the Labor Code and/or other statutes.

VII.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and Aggrieved Employees pray for judgment as follows:

1. For civil penalties for each violation for Plaintiffs and each Aggrieved Employee as provided by law, including but not limited to, those civil penalties provided by statute, provided by PAGA;
2. For costs of suit and expenses incurred herein pursuant to *Labor Code* §§ 2699(g) and any other statutory basis or pursuant to the California Rules of Court
3. For reasonable attorneys' fees pursuant to *Labor Code* §§ 2699(g) and any other statutory basis, and;
4. For all such other and further relief as the Court may deem just and proper.

Dated: December 2, 2020

LAW OFFICES OF JAKE D. FINKEL



Jake D. Finkel, Esq.
Alexander Perez, Esq.
Sheryl L. Marx, Esq.
Attorneys for Plaintiffs JHONNATAN ROQUE
and OSCAR MACKORTHY and on behalf of all
employees similarly situated

DEMAND FOR JURY TRIAL

Plaintiffs JHONNATAN ROQUE and OSCAR MACKORTHY hereby requests a jury trial on all issues so triable.

Dated: December 2, 2020

LAW OFFICES OF JAKE D. FINKEL, APC



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similarly situated