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REYNA FLORENTINO VASQUEZ,
11 as Private Attorney General

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF SANTA BARBARA – COOK DIVISION**

14 STATE OF CALIFORNIA ex rel.
REYNA FLORENTINO VASQUEZ, as
15 Private Attorney General,

16 Plaintiff,

17 v.

18 SAN LUCAS AG SERVICE, INC., a
19 corporation; and DOES 1-25, inclusive,

20 Defendants.

Case No. 20CV02319

Assigned for All Purposes to:

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

Trial Date: None

Complaint filed:

22 COMES NOW Plaintiff STATE OF CALIFORNIA ex rel. REYNA FLORENTINO
23 VASQUEZ as Private Attorney General (“Plaintiff”), who asserts claims against SAN LUCAS
24 AG SERVICE, INC., a corporation, and DOES 1 through 25, inclusive (collectively “Defendants”
25 or “Employers”) as follows:

26 **INTRODUCTION**

27 1. Plaintiff brings this action under the Labor Code Private Attorneys General Act of
28 2004 (“PAGA”), Labor Code sections 2698, *et seq.*, on behalf of the State of California for

1 herself, approximately 500 similarly situated current and former aggrieved employees employed
2 by San Lucas Ag Service, Inc. between May 5, 2020 and the conclusion of this action (“Statutory
3 Period”), and the People of the State of California (hereinafter collectively “Employees”).

4 2. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code,
5 permits an aggrieved employee to recover civil penalties set forth within the California Labor
6 Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil
7 penalties for violations of California Labor Code provisions that do not contain their own civil
8 penalties. Employees bring this civil action to recover civil penalties for the violations identified
9 below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil
10 penalties specifically set forth within the text of the California Labor Code. Those civil penalties
11 are sought for violations committed against Employees of Employers.

12 3. Pursuant to Section 2699.3, subdivisions (a)(1) and (b)(1), Plaintiff gave proper
13 notice to the California Labor and Workforce Development Agency and Defendants of the specific
14 provisions of the California Labor Code alleged to have been violated, including the facts and
15 theories to support the alleged violation. The LWDA neither inspected nor investigated the
16 violations. With respect to those violations that were curable under Subdivision (c)(1), the
17 Employers failed to cure the violations within the time provided under PAGA. Plaintiff and
18 Employees are, therefore, entitled to all civil penalties pursuant to Sections 2699(a), and pursuant
19 to Section 2699(f), in addition to Plaintiff’s costs and attorneys’ fees.

20 **JURISDICTION AND VENUE**

21 4. This Court has jurisdiction over this action pursuant to the California Constitution,
22 Article VI, §10.

23 5. Venue is proper in this Court because this action arises from employment in
24 Northern Santa Barbara County.

25 **PARTIES**

26 6. For all times relevant herein, REYNA FLORENTINO VASQUEZ was an adult
27 individual residing in Santa Barbara County, California. Ms. Vasquez is not suing in her
28 individual capacity; she is proceeding herein solely under the PAGA, on behalf of the State of

1 California for all aggrieved employees, including herself and approximately 500 other aggrieved
2 employees.

3 7. For all times relevant herein, Plaintiff is informed and believes, and on that basis
4 alleges, that Defendant SAN LUCAS AG SERVICE, INC. was and is a California corporation
5 with its principal California place of business in Santa Maria, CA.

6 8. Whenever in this Complaint reference is made to any act, deed, or conduct of
7 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or
8 through one or more of its agents, employees, or representatives, who was actively engaged in the
9 management, direction, control, or transaction of the business and affairs of Defendants.

10 9. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
11 associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and
12 therefore sues said defendants (the "Doe Defendants") by such fictitious names. Plaintiff will
13 amend this Complaint to insert the true names and capacities of the Doe Defendants at such time
14 as the identities of the Doe Defendants are ascertained.

15 10. Plaintiff is informed and believes, and based thereon alleges, that the Doe
16 Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each
17 other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged
18 directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and
19 accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable
20 to the extent of the liability of Defendants as alleged herein.

21 11. Plaintiff is further informed and believe, and thereon allege, that at all times herein
22 material, each Defendant was completely dominated and controlled by its co-Defendant(s) and
23 each was the alter ego of the other. Whenever and wherever reference is made in this Complaint to
24 any conduct by Defendants, or any of them, such allegations and references shall also be deemed
25 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.
26 Whenever and wherever reference is made to individuals who are not named as defendants in this
27 Complaint, but were employees and/or agents of Defendants, such individuals at all relevant times
28

1 acted on behalf of Defendants named in this Complaint within the scope of their respective
2 employment or agency with Defendants.

3 **FIRST COUNT**

4 **Failure to Pay Minimum Wages Owed**

5 **(By Plaintiff against All Defendants)**

6 12. Plaintiff incorporates by reference and realleges each and every allegation
7 contained above, as though fully set forth herein.

8 13. Section 1197 provides that “[t]he minimum wage for employees fixed by the
9 commission or by any applicable state or local law, is the minimum wage to be paid to employees,
10 and the payment of a lower wage than the minimum so fixed is unlawful.” “[O]n and after
11 January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per
12 hour.” Cal. Lab. Code, § 1182.12, subd. (a). “[T]he minimum wage for all industries shall not be
13 less than the amounts set forth in this subdivision (1) For any employer who employs 26 or
14 more employees, the minimum wage shall be as follows: (A) From January 1, 2017, to December
15 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour. (B) From January 1, 2018, to
16 December 31, 2018, inclusive,—eleven dollars (\$11) per hour. (C) From January 1, 2019, to
17 December 31, 2019, inclusive,—twelve dollars (\$12) per hour. (D) From January 1, 2020, to
18 December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.” Cal. Lab. Code, § 1182.12,
19 subd. (b).

20 14. Pursuant to Section 1197.1, “(a) Any employer or other person acting either
21 individually or as an officer, agent, or employee of another person, who pays or causes to be paid
22 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an
23 order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
24 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203
25 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
26 for each underpaid employee for each pay period for which the employee is underpaid. This
27 amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated
28 damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section

1 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
2 (\$250) for each underpaid employee for each pay period for which the employee is underpaid
3 regardless of whether the initial violation is intentionally committed. This amount shall be in
4 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
5 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.”

6 15. Throughout the Statutory Period, Defendants failed to pay Employees at least
7 minimum wage for all time worked, including time during which Employees were required to
8 report to work prior to their scheduled start times, which must be paid at a rate of not less than
9 minimum wage pursuant to California law. Defendants supervisors required Employees to report
10 to worksites 10-15 minutes prior to their scheduled start times to allow the employer to maximize
11 its efficiency at the expense of the Employees’ wages. For example, Defendants required Ms.
12 Vasquez to report to work approximately 10-15 minutes prior to her scheduled start time, for
13 which she was not paid.

14 16. Additionally, throughout the Statutory Period, Defendants required its employees
15 to take 15-minute rest periods through their workdays, but paid only 10 minutes of that time.
16 Because the Employees were under Defendants’ control for the full amount of the 15-minute rest
17 period, Defendants was and is required to pay Employees the full 15-minute rest periods.

18 17. Defendants paid zero dollars for the foregoing 5-minute increments of
19 Employees’ rest periods and for Employees’ nonproductive waiting time prior to the start of each
20 shift. Consequently, Defendants violated the minimum wage laws.

21 18. Employees are entitled to all civil penalties provided by law.

22 **SECOND COUNT**

23 **Failure to Record All Hours Worked**

24 **(By Plaintiff against All Defendants)**

25 19. Plaintiff incorporates by reference and realleges each and every allegation
26 contained above, as though fully set forth herein.

27 20. “The maximum hours of work and the standard conditions of labor fixed by the
28 commission shall be the maximum hours of work and the standard conditions of labor for

1 employees. The employment of any employee for longer hours than those fixed by the order or
2 under conditions of labor prohibited by the order is unlawful.” Lab. Code, § 1198.

3 21. Pursuant to Industrial Welfare Commission Wage Order 14(7), “[e]very employer
4 shall keep accurate information with respect to each employee including the following: (3) Time
5 records showing when the employee begins and ends each work period. ... (5) Total hours
6 worked in the payroll period and applicable rates of pay.”

7 22. By failing to record the Employees’ pre-shift work time, Defendants violated Wage
8 Order 14, in addition to Labor Code, § 1174. Wage Order 14(7) also provides that “Authorized
9 rest period time shall be counted as hours worked for which there shall be no deduction from
10 wages.” By failing to count the full amount of Employees’ authorized 15-minute rest periods as
11 hours worked, Defendants violated Wage Order 14, in addition to Labor Code, §§ 226.7 and 1174.

12 23. The Employees are entitled to all civil penalties available under the PAGA.

13 **THIRD COUNT**

14 **Failure to Provide Compliant Meal Periods or Pay Meal Premiums**

15 **(By Plaintiff against All Defendants)**

16 24. Plaintiff incorporates by reference and realleges each and every allegation
17 contained above, as though fully set forth herein.

18 25. “An employer may not employ an employee for a work period of more than five
19 hours per day without providing the employee with a meal period of not less than 30 minutes,
20 except that if the total work period per day of the employee is no more than six hours, the meal
21 period may be waived by mutual consent of both the employer and employee. An employer may
22 not employ an employee for a work period of more than 10 hours per day without providing the
23 employee with a second meal period of not less than 30 minutes, except that if the total hours
24 worked is no more than 12 hours, the second meal period may be waived by mutual consent of the
25 employer and the employee only if the first meal period was not waived.” Cal. Lab. Code, § 512,
26 subd. (a).

27 26. Pursuant to Labor Code sections 226.7 and 512, and Wage Order 14, duty-free
28 meal periods of no less than thirty (30) minutes are required for all non-exempt employees who

1 work at least five (5) hours in a work period per day. The employee must be free to leave the
2 employer's premises. An employer may not employ an employee for a work period of more than
3 10 hours per day without providing the employee with a second meal period of not less than 30
4 minutes. Time records of meal periods must be kept. Meal periods must be paid when the
5 employee is not relieved of all duties or free to leave the premises. An employer who fails to
6 provide a duty-free meal period must pay the employee an additional one (1) hour regular pay for
7 each day in which a duty-free meal period is not provided.

8 27. "If an employer fails to provide an employee a meal or rest or recovery period in
9 accordance with a state law, including, but not limited to, an applicable statute or applicable
10 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
11 Health Standards Board, or the Division of Occupational Safety and Health, the employer shall
12 pay the employee one additional hour of pay at the employee's regular rate of compensation for
13 each workday that the meal or rest or recovery period is not provided." Cal. Lab. Code, § 226.7,
14 subd. (c).

15 28. "Any employer or other person acting on behalf of an employer who violates, or
16 causes to be violated, a section of this chapter or any provision regulating hours and days of work
17 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
18 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
19 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
20 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
21 employee for each pay period for which the employee was underpaid in addition to an amount
22 sufficient to recover underpaid wages." Cal. Lab. Code, § 558, subd. (a).

23 29. Throughout the Statutory Period, although Employees were entitled to a meal
24 period within the first five (5) hours of work, Defendants regularly scheduled Employees' first
25 meal periods after such time. For example, Defendants did not provide meal periods to
26 Employees within Ms. Vasquez's crew until after approximately 11:45 a.m., which was more than
27 5 hours after the Employees' commencement of work each day. Consequently, Defendants
28 provided untimely periods to the Employees.

30. The Employees are entitled to all civil penalties available under the PAGA.

FOURTH COUNT

Inaccurate Wage Statements

(By Plaintiff against All Defendants)

31. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

32. “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, ... (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment.” Cal. Lab. Code, § 226, subd. (a).

33. “Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3.

34. Throughout the Statutory Period, Defendants failed to furnish Employees with accurate itemized statements at the time of each payment of wages showing the correct gross wages earned, correct total hours worked, correct net wages earned, and the corresponding correct number of hours worked at each applicable hourly rate. Rather than providing statements of actual time worked and a correct payment of wages based thereon, Defendants failed to capture and pay Employees for nonproductive pre-shift waiting time, and also failed to capture and pay premium pay for missed meal periods. Consequently, Defendants failed to provide Employees accurate itemized wages statements as required by Section 226.

35. The Employees are entitled to all civil penalties available under the PAGA.

FIFTH COUNT

Untimely Payment of Wages

(By Plaintiff against All Defendants)

36. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

37. Generally, “[a]ll wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Cal. Lab. Code, § 204, subd. (a).

38. Generally, “[l]abor performed by a weekly-paid employee during any calendar week and prior to or on the regular payday shall be paid for not later than the regular payday of the employer for such weekly-paid employee falling during the following calendar week. Labor performed by a weekly-paid employee during any calendar week and subsequent to the regular payday shall be paid for not later than seven days after the regular payday of the employer for such weekly-paid employee falling during the following calendar week.” Cal. Lab. Code, § 204b.

39. Special rules govern agricultural employees, however: “All wages, other than those mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section 1140.4, are due and payable twice during each calendar month, on days designated in advance by the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid between the first and the seventh day of the following month.” Cal. Lab. Code, § 205.5.

40. “In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.” Cal. Lab. Code, § 210, subd. (a).

41. Rather than timely paying Employees all wages due within the periods set forth above, throughout the Statutory Period, Defendants failed to timely pay Employees for all hours worked and all premium wages.

42. The Employees are entitled to all civil penalties available under the PAGA.

SIXTH COUNT

Failure to Pay Wages at Termination

(By Plaintiff against All Defendants)

43. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

44. “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Cal. Lab. Code, § 201, subd. (a). “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the

1 wages of 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. An employee who secretes or absents himself or herself to avoid payment to him or her, or
4 who refuses to receive the payment when fully tendered to him or her, including any penalty then
5 accrued under this section, is not entitled to any benefit under this section for the time during
6 which he or she so avoids payment.” Cal. Lab. Code, § 203, subd. (a).

7 45. Throughout the Statutory Period, Defendants failed to pay Employees at least
8 minimum wage and all premium wages for all time worked. These wages were owed and due to
9 those Employees who were terminated at the time of their termination. Defendants did not
10 provide these payments to Employees at the time of termination or within a sufficient time of
11 resignation as required by law. Defendants’ failure to timely pay these wages at the time of
12 termination, and failure to pay Employees’ continued wages for the 30-day period, thereafter,
13 constitutes a violation of Sections 201 and 203.

14 46. The Employees are entitled to all civil penalties available under the PAGA.

15 **SEVENTH COUNT**

16 **Improper Payment of Nonproductive Time, and Rest/Recovery Periods**

17 **(By Plaintiff against All Defendants)**

18 47. Plaintiff incorporates by reference and realleges each and every allegation
19 contained above, as though fully set forth herein.

20 48. Section 226.2 “appl[ies] for employees who are compensated on a piece-rate basis
21 for any work performed during a pay period. This section shall not be construed to limit or alter
22 minimum wage or overtime compensation requirements, or the obligation to compensate
23 employees for all hours worked under any other statute or local ordinance. For the purposes of this
24 section, ‘applicable minimum wage’ means the highest of the federal, state, or local minimum
25 wage that is applicable to the employment, and ‘other nonproductive time’ means time under the
26 employer’s control, exclusive of rest and recovery periods, that is not directly related to the
27 activity being compensated on a piece-rate basis.” Cal. Lab. Code, § 226.2. Throughout the
28 Statutory Period, the Employees, including Ms. Vasquez, were paid on a piece-rate basis.

49. Throughout the Statutory Period, Defendants violated the following provisions of § 226.2, subdivision (a): “For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period: ... (2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable: (A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period. (B) Except for employers paying compensation for other nonproductive time in accordance with paragraph (7), the total hours of other nonproductive time, as determined under paragraph (5), the rate of compensation, and the gross wages paid for that time during the pay period.”

50. Defendants failed to provide itemized statements that accurately listed the total hours of compensable rest and recovery periods.

51. “(3) (A) Employees shall be compensated for rest and recovery periods at a regular hourly rate...”

52. Defendants failed to pay Employees for the full amount of time spent during rest and recovery periods at their regular hourly rate.

53. “(4) Employees shall be compensated for other nonproductive time at an hourly rate that is no less than the applicable minimum wage.”

54. Defendants failed to pay Employees for nonproductive pre-shift waiting time at a rate of at least the applicable minimum wage.

55. Defendants are subject to additional civil penalties as provided by law.

PRAYER

WHEREFORE, Plaintiff and Employees pray for judgment against Defendants, as follows:

1. For civil penalties pursuant to Labor Code sections 2698, *et seq.* in an amount not less than \$1,000,000;

2. For reasonable costs and attorneys' fees; and

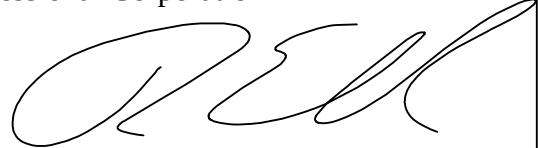
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3. For such other and further relief as the Court deems proper.

DATED: July 13, 2020

WORKWORLD LAW CORP.
A Professional Corporation

By: 
RUBEN ESCOBEDO
Attorney for STATE OF CALIFORNIA ex
rel. REYNA FLORENTINO VASQUEZ, as
Private Attorney General