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ALAMEDA COUNTY

September 23, 2020

CLERK OF
THE SUPERIOR COURT
By Milagros Cortez, Deputy

CASE NUMBER:

RG20074741

1 KENNETH H. YOON (State Bar No. 198443)
2 STEPHANIE E. YASUDA (State Bar No. 265480)
3 BRIAN G. LEE (State Bar No. 300990)
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Attorneys for Plaintiff Casey Troyer

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ALAMEDA**

12 CASEY TROYER, an aggrieved employee, on
13 behalf of himself and other current and former
14 employees,

Plaintiff,

v.

15 THE YERBA MATE CO., LLC, a limited
16 liability company; GUAYAKI SUSTAINABLE
17 RAINFOREST PRODUCTS, INC., a
18 corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.:

19 **COMPLAINT FOR PENALTIES FOR**
20 **VIOLATION OF LABOR CODE**
21 **SECTION 2698 *et seq.***

22 **DEMAND FOR JURY TRIAL**

1 Plaintiff Casey Troyer ("Plaintiff") hereby submits his Complaint for Penalties against
2 Defendants The Yerba Mate Co., LLC, Guayaki Sustainable Rainforest Products, Inc., and
3 DOES 1 through 50, inclusive (collectively, "Defendants"), on behalf of themselves and other
4 similarly situated aggrieved employees of Defendants for failure to provide meal periods and
5 rest breaks, failure to pay all minimum and overtime wages, failure to maintain accurate wage
6 statements, and failure to pay all wages due and owing in a timely fashion, as follows:

7 **INTRODUCTION**

8 1. This representative action is brought pursuant to Labor Code § 2698 *et seq.* (the
9 Private Attorneys General Act of 2004 ("PAGA")) for Defendant's violations of California
10 Labor Code §§ 201 to 204, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1194, 1194.2, 1194.5,
11 1197, 1197.1, 1198, and the applicable Industrial Welfare Commission ("IWC") Wage Order.

12 2. This Complaint challenges Defendants' systemic illegal employment practices
13 resulting in violations of the stated provisions of the Labor Code and corresponding IWC
14 Wage Order against the group of aggrieved employees.

15 3. Plaintiff is informed and believes and thereon alleges Defendants joint and
16 severally acted intentionally and with deliberate indifference and conscious disregard to the
17 rights of all employees in (1) failing to pay all meal period wages and rest break wages, (2)
18 failing to pay all overtime wages and minimum wages, (3) failing to provide accurate wage
19 statements, and (4) failing to timely pay all wages due and owing upon termination of
20 employment.

21 **JURISDICTION AND VENUE**

22 4. This representative action is brought pursuant to PAGA. The monetary damages
23 sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be
24 established according to proof at trial.

25 5. This Court has jurisdiction over this action pursuant to California Constitution,
26 Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes
27 except those given by statute to other courts. The statutes under which this action is brought
28 do not specify any other basis for jurisdiction.

6. This Court has jurisdiction over the violations of Labor Code §§ 201 to 204, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1194, 1194.2, 1194.5, 1197, 1197.1, 1198, and the applicable Industrial Welfare Commission (“IWC”) Wage Order.

7. This Court has jurisdiction over all Defendants because, upon information and belief, each party has sufficient minimum contacts in California, or otherwise intentionally avails itself of California law so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

8. Venue is proper in this Court because, upon information and belief, the named Defendants transact business and/or have offices in this county, and the acts and omissions alleged herein took place in this county.

PARTIES

9. Plaintiff Casey Troyer is an individual residing in the State of California. Plaintiff was formerly employed by Defendants in a non-exempt position during the relevant time period.

10. Plaintiff is informed and believes and thereon allege that Defendant The Yerba Mate Co., LLC is a limited liability company licensed to do business and actually doing business in the State of California, including the County of Alameda.

11. Plaintiff is informed and believes and thereon allege that Defendant Guayaki Sustainable Rainforest Products, Inc. is a California corporation licensed to do business and actually doing business in the State of California, including the County of Alameda

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges that each of Defendants designated as a DOE was responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and the group of aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

1 **13.** At all times herein mentioned, Defendants, and each of them, were agents,
2 partners, joint venturers, representatives, servants, employees, successors-in-interest, co-
3 conspirators and assigns, each of the other, and at all times relevant hereto were acting within
4 the course and scope of their authority as such agents, partners, joint venturers, representatives,
5 servants, employees, successors, co-conspirators and assigns, and that all acts or omissions
6 alleged herein were duly committed with ratification, knowledge, permission, encouragement,
7 authorization and consent of each Defendant designated herein.

8 **14.** As such, and based upon all the facts and circumstances incident to Defendants'
9 business in California, Defendants are subject to Labor Code §§ 201 to 204, 226, 226.3, 226.7,
10 256, 510, 512, 558, 1174, 1194, 1194.2, 1194.5, 1197, 1197.1, 1198, and the applicable
11 Industrial Welfare Commission ("IWC") Wage Order.

12 **CAUSE OF ACTION**

13 **FOR VIOLATION OF PAGA**

14 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF**
15 **ALL AGGRIEVED EMPLOYEES)**

16 **15.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 13 as
17 though fully set forth herein.

18 **16.** PAGA expressly establishes that any provision of the California Labor Code
19 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
20 departments, divisions, commissions, boards, agencies or employees for a violation of the
21 California Labor Code, may be recovered through a civil action brought by an aggrieved
22 employee on behalf of himself or herself, and other current or former employees.

23 **17.** Plaintiff seeks to recover all applicable and available PAGA remedies pursuant
24 to Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by
25 PAGA through a representative action pursuant to the PAGA and the California Supreme
26 Court in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Therefore, Plaintiff is not required
27 to, nor does he, seek class certification of the PAGA claims under Code of Civil Procedure §
28 382.

1 18. On July 20, 2020, Plaintiff provided written notice to the LWDA and
2 Defendants of the specific provisions of the Labor Code he contends were violated, and the
3 theories supporting his contentions. To date, he has not received a response.

4 19. Plaintiff and the other non-exempt employees are "aggrieved employees" as
5 defined by California Labor Code § 2699(c) in that they are all current or former employees of
6 Defendants, and one or more of the alleged violations was committed against them.

7 **Failure to Pay Minimum and Overtime Wages**

8 20. At all times relevant herein, Defendants were required to compensate their non-
9 exempt employees minimum wages for all hours worked and overtime wages for all hours
10 worked in excess of eight (8) hours in a workday and forty (40) hours in a workweek, pursuant
11 to the mandate of Labor Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, and 1198.

12 21. As a pattern and practice, Defendants failed to compensate Plaintiff and other
13 aggrieved employees for all hours of work performed, and failed to pay overtime wages for all
14 hours worked exceeding 8 in a day or 40 in a week (including double overtime for hours
15 worked exceeding 12 in a day). During the relevant time period, Defendants failed to
16 compensate Plaintiff and other aggrieved employees for all hours of work performed, and
17 failed to pay overtime wages for all hours worked exceeding 8 in a day or 40 in a week.
18 Specifically, Defendants paid Plaintiff and other aggrieved non-exempt employees on a fixed-
19 salary basis, without regard for the number of hours actually worked. Thus, Defendants failed
20 to provide aggrieved employees with wages for all hours worked and for all overtime wages
21 earned despite constructive and actual knowledge of the hours of work being performed.

22 22. This resulted in a failure to compensate Plaintiff and other aggrieved employees
23 minimum and overtime wages at the applicable rate for all hours worked.

24 **Failure to Provide Meal Periods and Rest Breaks**

25 23. In accordance with the mandates of the California Labor Code and the
26 applicable IWC Wage Order, Plaintiff and other aggrieved employees had the right to take a
27 10-minute rest break for every four (4) hours worked or major fraction thereof, and a 30-
28 minute meal period for every five (5) hours worked.

1 24. As a pattern and practice, Defendant failed to provide aggrieved employees the
2 opportunity to take the requisite number of lawful meal and rest breaks and routinely required
3 Plaintiff and other aggrieved employees to work through and/or delay or altogether skip their
4 meal periods and/or rest breaks. Despite these facts, Defendants never compensated premium
5 wages to Mr. Troyer and other aggrieved employees.

6 **Failure to Timely Pay Wages During and Upon Termination of Employment**

7 25. At all times relevant herein, Defendants were required to pay their employees in
8 a timely fashion pursuant to the mandate of Labor Code §§ 201 to 204.

9 26. As a result of Defendants' Labor Code violations alleged above, Defendants
10 failed to pay Plaintiff and the other aggrieved employees all wages due them within the time
11 periods specified by Labor Code §§ 201-204 during and upon termination of employment.

12 **Failure to Provide Complete and Accurate Wage Statements**

13 27. At all times relevant herein, Defendants were required to keep *accurate* records
14 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and
15 1174(d).

16 28. As a result of Defendants' various Labor Code violations, Defendants failed to
17 keep accurate records regarding Plaintiff and other similarly-situated current and former
18 employees. For example, Defendants failed in their affirmative obligation to keep accurate
19 records regarding Plaintiff and other similarly-situated current and former employees' gross
20 wages earned, total hours worked, net wages earned, and all applicable hourly rates and the
21 number of hours worked at each hourly rate.

22 **Damages**

23 29. Pursuant to Labor Code § 2699, Plaintiff, individually and on behalf of other
24 current and former aggrieved employees, requests and is entitled to recover from Defendants,
25 and each of them, civil penalties, interest, attorneys' fees and costs pursuant, as well as all
26 statutory penalties against Defendants, and each of them, including but not limited to:

27 30. Penalties under Labor Code § 2699 in the amount of a hundred dollars (\$100)
28 for each aggrieved employee per pay period for the initial violation, and two hundred dollars

1 (\$200) for each aggrieved employee per pay period for each subsequent violation;

2 **31.** Penalties under Labor Code § 210 in the amount of a hundred dollars (\$100) for
3 each aggrieved employee per pay period for the initial violation, and two hundred dollars
4 (\$200) for each aggrieved employee per pay period for each subsequent violation, plus 25% of
5 the amount unlawfully withheld;

6 **32.** Penalties under Labor Code § 256 in the amount of 30 days pay per aggrieved
7 former employee;

8 **33.** Penalties under Labor Code § 226.3 in the amount of two hundred fifty dollars
9 (\$250) per employee per initial violation and one thousand dollars (\$1,000) per employee for
10 each subsequent violation;

11 **34.** Penalties under Labor Code § 558 in the amount of fifty dollars (\$50) for each
12 aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for
13 each aggrieved employee per pay period for each subsequent violation;

14 **35.** Penalties under Labor Code § 1197.1 in the amount of one hundred dollars
15 (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred
16 fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

17 **36.** Any and all additional penalties and sums as provided by the Labor Code and/or
18 other statutes; and

19 **37.** Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, 2699, and any
20 other applicable statute

21 **PRAYER FOR RELIEF**

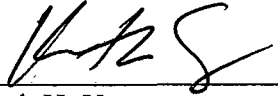
22 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf
23 this suit is brought against Defendants, jointly and severally, as follows:

- 24 1. Upon the Cause of Action, for civil penalties pursuant to statute as set forth in
25 Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201,
26 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 558, 1194, 1197.1, and
27 1198;
28 2. On all causes of action for attorneys' fees, interest, and costs as provided by

1 California Labor Code §§ 210, 218.6, 226, 1194, 2699, and Code of Civil
2 Procedure § 1021.5, and for such other and further relief the Court may deem
3 just and proper.

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5 DATED: September 23, 2020

YOON LAW, APC

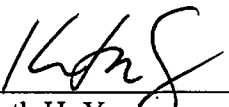
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8 Kenneth H. Yoon
Stephanie E. Yasuda
Brian G. Lee
9 Attorneys for Plaintiff

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12 **DEMAND FOR JURY TRIAL**

13 Plaintiff, for himself and the aggrieved employees, hereby demand a jury trial as
14 provided by California law.

15 DATED: September 23, 2020

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17 
18 Kenneth H. Yoon
Stephanie E. Yasuda
19 Brian G. Lee
20 Attorneys for Plaintiff