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Attorneys for Plaintiff Joann Torres, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JOANN TORRES, on behalf of herself and all
“aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiffs,

v.

FRICK PAPER COMPANY LLC, a
California limited liability company, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO: 30-2020-01161120-CU-OE-CXC

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201-202, 226(a), 226.7, 227.3, 510, 512,
AND 1194 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3 AND 558**

DEMAND FOR JURY TRIAL

Assigned for All Purposes
H. Judge Randall Sherman
CX-105

Plaintiff JOANN TORRES (“Plaintiff”), on behalf of herself and all non-exempt California employees who currently work or formerly worked for FRICK PAPER COMPANY LLC, a California limited liability company and/or any subsidiaries or affiliated companies (hereinafter referred to as “Defendants”) within the State of California (“Aggrieved Employees”) under the Labor Code Private Attorneys General Act of 2004, complains of Defendants as follows:

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I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Representative Action, pursuant to Labor Code § 2698 et seq., on behalf of Plaintiff and Aggrieved Employees.

2. For at least one (1) year prior to the filing of this action and at least one (1) year prior to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had consistent policies of:

a. Failing to pay Plaintiff and Aggrieved Employees all minimum and overtime wages earned during the course of employment, in violation of Labor Code §§ 510, 558 and 1194, when it rounded down the hours reflected on Plaintiff and Aggrieved Employees’ time records to pay fewer hours than were actually worked. On a weekly basis, this rounding deprived Plaintiff and Aggrieved Employees of significant hours worked and wages due. These failures to pay all minimum and overtime wages due constitute violations of Labor Code §§ 510, 558 and 1194.

b. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were denied rest periods, in violation of Labor Code §§ 226.7, 558 and IWC Wage Order No. 4-2001. Plaintiff and Aggrieved Employees were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour’s pay for each missed rest period. When they were able to take a rest period, they were not permitted to leave the Defendant’s premises, in violation of Labor Code §§ 226.7, 558 and IWC Wage Order No. 4-2001.

c. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage Order 4-2001. Plaintiff and Aggrieved Employees were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour’s pay for each missed first or second meal period. When they were able to take a meal period, they were oftentimes, late, cut short, or on-duty, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order 4-2001.

1 d. Failing to provide Plaintiff and Aggrieved Employees with wage statements that fully
2 and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiff and Aggrieved
3 Employees were not paid all wages due, as stated above. As such, the wage statements provided by
4 Defendant failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1)
5 and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned,
6 in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the
7 pay period and the corresponding number of hours worked at each hourly rate by the employee, in
8 violation of Labor Code §§ 226(a)(9) and 226.3.

9 e. Failing to pay Plaintiff and Aggrieved Employees for all accrued, but unused vacation
10 wages upon separation of their employment, instead requiring their forfeiture. This violates Labor
11 Code § 201-202, 227.3, 510, 558, and 1194.

12 f. Failing to pay Plaintiff and Aggrieved Employees all wages due at the separation of
13 their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above,
14 Plaintiff and Aggrieved Employees were not paid all wages due during the course of their employment
15 and, as a result of this failure, they were not timely paid all wages due at the separation of their
16 employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and certain
17 Aggrieved Employees.

18 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
19 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

20 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
21 Defendants employed Plaintiff and other Aggrieved Employees in Orange County, California.

22 II.

23 PARTIES

24 A. Plaintiff

25 5. Plaintiff JOANN TORRES was employed by Defendants from September 2010 to
26 March 2020 as a non-exempt employee.
27
28

1 **B. Defendants**

2 6. Defendant FRICK PAPER COMPANY LLC is a California limited liability company.
3 Defendant employed Plaintiff and other Aggrieved Employees in Orange County, California.

4 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
6 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
7 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
8 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
9 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
10 designated hereinafter as DOES when such identities become known.

11 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
12 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
13 business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally
14 attributable to the other Defendants.

15 9. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
16 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
17 provisions of the California Labor Code as alleged herein.

18 **III.**

19 **CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

21 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST DEFENDANTS**
22 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF**
23 **LABOR CODE §§ 201-202, 226(a), 226.7, 227.3, 510, 512, AND 1194 AND PURSUANT TO**
24 **LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**
25

26 10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set
27 forth herein.
28

11. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201-202, 226(a), 226.7, 227.3, 510, 512, and 1194.

b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On July 8, 2020, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of July 8, 2020. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

IV.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and

1 4. Such other and further relief as this Court may deem just and proper.

2 Dated: September 18, 2020

Respectfully submitted,

3 GAINES & GAINES
4 A Professional Law Corporation

5 ***Sepideh Ardestani***

6 By: _____
7 DANIEL F. GAINES
8 SEPIDEH ARDESTANI
9 Attorneys for Plaintiff

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

12 Dated: September 18, 2020

Respectfully submitted,

13 GAINES & GAINES
14 A Professional Law Corporation

15 ***Sepideh Ardestani***

16 By: _____
17 DANIEL F. GAINES
18 SEPIDEH ARDESTANI
19 Attorneys for Plaintiff