

CODY PAYNE, SBN 282342
cody@paynellp.com
KIM NGUYEN, SBN 293906
kim@paynellp.com
PAYNE NGUYEN, LLP
4640 Admiralty Way, Suite 500
Marina del Rey, CA 90292
Telephone: (310) 360 – 9882
Facsimile: (310) 928 – 7469

Attorneys for Plaintiff
JOHNNY CARPENTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

JOHNNY CARPENTER, individually and as
a private attorney general;

Plaintiff,

vs.

BRAD AND ZOE INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

COMPLAINT FOR: 30-2021-01177633-CU-OE-CXC

**(1) PRIVATE ATTORNEY
GENERAL ACT, LABOR CODE
§2698 ET SEQ**

DEMAND FOR TRIAL BY JURY

Assigned for All Purposes
Judge Peter Wilson

CX-102

1 Plaintiff JOHNNY CARPENTER (“Plaintiff”), as an individual, and as a private attorney
2 general alleges as follows:

3 **THE PARTIES, JURISDICTION AND VENUE**

4 1. Plaintiff is, and at all relevant times mentioned herein was, a resident of the County of
5 Los Angeles, State of California.

6 2. Defendant BRAD AND ZOE INC. (“Brad and Zoe”) is, and at all times mentioned
7 herein was, a corporation organized and existing under the laws of the State of California, doing
8 business in the County of Orange, California.

9 3. Brad and Zoe at all times herein mentioned was, (a) conducting business in the County
10 of Orange, State of California; (b) the employer of Plaintiff consistent with California Labor Code
11 and Industrial Welfare Commission Wage Orders; and (c) Plaintiff’s employer as defined under
12 Government Code section 12926 subsection (c).

13 4. The acts alleged herein arose in Orange County, within the State of California.

14 5. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and
15 therefore sues these defendants by such fictitious names. The Doe defendants may be individuals,
16 partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that at all
17 times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant,
18 employee, co-venturer, and/or co-conspirator of each of the other defendants and was at all times
19 mentioned, acting within the scope, purpose, consent, knowledge, ratification and authorization of
20 such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to
21 allege their true names and capacities when ascertained. Plaintiff is informed and believes and
22 thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner
23 for the occurrences herein alleged, and that Plaintiff’s damages as herein alleged was proximately
24 caused by its conduct. Doe Defendants 1 through 50 and Brad and Zoe are herein collectively
25 referred to as “Defendants.”

26 **GENERAL ALLEGATIONS**

27 6. Plaintiff was employed by Defendants from approximately September 2019 through
28 approximately March 2020 in California as a warehouse employee/shipping associate.

1 7. Plaintiff was scheduled to work at least five days per week and required to work at least
2 eight (8) hours per day and sometimes in excess of twelve (12) hours per day.

3 8. Plaintiff's responsibilities included in part, locating, packing, and preparing items for
4 shipment.

5 9. Plaintiff and similarly aggrieved current and former non-exempt employees
6 ("Aggrieved Employees") were required to wait in line to clock in and out for the start or end of
7 their shift and for the start or end of their meal period without compensation.

8 10. Plaintiff and Aggrieved Employees were also required to regularly work more than five
9 (5) hours without being provided a meal period and to work more than ten (10) hours without being
10 provided with a second meal period. In fact, Plaintiff was reprimanded for taking or attempting to
11 take an uninterrupted 30-minute meal period. Further, Defendants forced Plaintiff and Aggrieved
12 employees to take their lunch after six (6) hours of working.

13 11. Plaintiff and Aggrieved Employees never waived their rights to a meal period when
14 they worked six (6) or more hours.

15 12. Plaintiff and Aggrieved Employees never received a second lunch period.

16 13. Plaintiff and Aggrieved Employees never received payment of one (1) additional hour
17 of pay at their regular rate of pay when a meal period was missed or interrupted.

18 14. Because of Defendants' policies and practices, Plaintiff and Aggrieved Employees
19 were never able to take an uninterrupted ten (10) minute rest break and was reprimanded every
20 time he asked for one or attempted to take one.

21 15. Plaintiff and Aggrieved Employees never received payment of one (1) additional hour
22 of pay at their regular rate of pay when a rest break was missed or interrupted.

23 16. Defendants employed a time rounding policy that was not neutral and designed to
24 consistently round time in Defendants' favor, ensuring that Plaintiff and the Aggrieved Employees
25 were not paid for all time worked.

26 17. Furthermore, Defendants often requested Plaintiff and Aggrieved Employees to work
27 prior to clocking-in or to keep working after they clocked-out for the day to finish their assigned
28 work. Defendants failed to pay Plaintiff and Aggrieved Employees for time worked off the clock

1 prior to and at the end of their respective shifts.

2 18. Plaintiff and Aggrieved Employees regularly worked more than eight (8) hours in a
3 day, and/or forty (40) hours in a week during their employment with Defendants.

4 19. Plaintiff and Aggrieved Employees did not receive payment of all wages, including
5 overtime and minimum wages and meal and rest period premiums, within any time permissible
6 under California Labor Code section 204.

7 20. Plaintiff and Aggrieved Employees were entitled to receive complete and accurate
8 wage statements in accordance with California law, but, in fact, they did not receive complete and
9 accurate wage statements from Defendants. The deficiencies included, inter alia, the failure to
10 include the legal entity on the wage statement, failure to include the total number of hours worked
11 by Plaintiff and Aggrieved Employees and the failure to include premium pay for missed and/or
12 interrupted rest and meal breaks.

13 21. On numerous occasions, Plaintiff requested that his supervisors, to provide him with a
14 ten (10) minute uninterrupted rest break and/or a thirty (30) minute uninterrupted meal period, and
15 an accurate wage statement due to missing wages, however such requests were denied and met
16 with hostile retaliation.

17 22. In or about March 2020, Plaintiff was “laid off” and told that he would be rehired.

18 23. On or about June 19, 2020, Plaintiff’s counsel requested his personnel file from
19 Defendants.

20 24. Defendants retaliated against Plaintiff in direct response to his requests and terminated
21 him on or about July 3, 2020, stating his “layoff status is indefinite” and included a check for his
22 purported accrued birthday and sick hours.

23 25. Plaintiff never received the missing wages earned upon termination of his employment.

24 26. On or about July 7, 2020, Plaintiff notified Defendants via certified mail and filed an
25 online PAGA claim notice with the California Labor and Workforce Development Agency
26 (“LWDA”) identifying Defendants’ violations of the California Labor Code identified in this
27 Complaint and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code
28 section 2698 et seq.

27. On or about October 2, 2020, Plaintiff notified Defendants via certified mail and filed an amended online PAGA claim notice with the LWDA identifying Defendants' additional violations of the California Labor Code identified in this Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code section 2698 et seq.

FIRST CAUSE OF ACTION

(Violation of Labor Code § 2698, et seq.)

(Against All Defendants)

28. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

29. Plaintiff brings this claim as an individual employee and in his capacity as a private attorney general pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq. (“PAGA”).

30. On or about July 7, 2020, Plaintiff notified Defendants via certified mail and filed an online PAGA claim notice with the California Labor and Workforce Development Agency (“LWDA”) identifying Defendants’ violations of the California Labor Code identified in this Complaint and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code section 2698 et seq. The LWDA assigned Plaintiff’s case number LWDA-CM-795942-20. Plaintiff also submitted a filing fee of seventy-five (\$75.00) to the LWDA in accordance with Labor Code section 2699.3(a)(1)(B). Sixty-five days have passed from the date of Plaintiff’s notice to the LWDA, and thus Plaintiff has exhausted his administrative remedies, thereby allowing Plaintiff to commence a civil action against Defendants pursuant to Labor Code section 2699.

31. On or about October 2, 2020, Plaintiff notified Defendants via certified mail and filed an amended online PAGA claim notice with the LWDA identifying Defendants' additional violations of the California Labor Code identified in this Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code section 2698 et seq.

32. During all relevant times for this action, Defendants regularly required Plaintiff and Aggrieved Employees to work more than eight (8) hours per day and forty (40) hours per week.

1 However, Plaintiff and Aggrieved Employees were not paid wages, including minimum wages
2 and/or overtime wages, for such time worked. Instead, Plaintiff and Aggrieved Employees were
3 paid for just eight (8) hours in a day or forty (40) hours in a week.

4 33. During all relevant times for this action, Defendants failed to provide uninterrupted
5 meal periods to Plaintiff and Aggrieved Employees when they worked more than five (5) hours
6 per day and ten (10) hours per day because Defendants required Plaintiff and Aggrieved
7 Employees to stay on duty and never provided an uninterrupted first or second meal break.

8 34. In addition, Defendants failed to permit Plaintiff and Aggrieved Employees to take
9 uninterrupted rest breaks for any shift exceeding four (4) hours of work or a major fraction thereof.

10 35. Although Defendants failed to provide uninterrupted meal and rest breaks as required
11 by California law, Defendants failed to pay Plaintiff and Aggrieved Employees premium pay for
12 those days in which they were not permitted to take a meal and/or rest break which was duty free.

13 36. Further, Defendants failed to provide Plaintiff and other similarly Aggrieved
14 Employees with the amount of sick leave available, or paid time off leave provided in lieu of sick
15 leave and further failed to accurately include such information on itemized wage statements.

16 37. In addition, Defendants failed to pay Plaintiff and similarly Aggrieved Employees for
17 all earned and unused and accrued vacation time at their final rate of pay at the time of termination
18 of their employment.

19 38. In addition, Defendants failed to provide Plaintiff and Aggrieved Employees with
20 properly itemized wage statements including because Defendants failed to include the actual hours
21 worked, the correct rate of pay and the meal and rest period premiums owed.

22 39. Further, during Plaintiff and Aggrieved Employees' employment, Defendants were
23 required to pay all wages earned for labor in excess of the normal work period not later than the
24 payday for the next regular payroll period. However, Defendants failed to pay Plaintiff and
25 Aggrieved Employees all wages due to them within the time period specified by California Labor
26 Code section 204, including premiums owed.

27 40. Additionally, Defendants failed to timely pay Plaintiff and other similarly Aggrieved
28 Employees all wages at the end of employment.

1 41. Further, during all relevant times for this action, Plaintiff complained to Defendants
2 regarding not receiving rest and meal periods, not being paid for all time worked, and not being
3 paid in a timely manner, but Plaintiff was ignored. In response, Plaintiff was “laid off” and told
4 that he would be rehired. On or about June 19, 2020, Plaintiff’s counsel requested his personnel
5 file from Defendants. In response, Defendant terminated Plaintiff’s employment.

6 42. Plaintiff, as an “Aggrieved Employee” within the meaning of Labor Code § 2698 *et*
7 *seq.*, acting on behalf of himself and other similarly Aggrieved Employees, brings this
8 representative action against Defendants to recover the civil penalties due to Plaintiff, other
9 similarly Aggrieved Employees, and the State of California according to proof pursuant to Labor
10 Code § 2699 (a) and (f) including, but not limited to \$100.00 for each initial violation and \$200.00
11 for each subsequent violation per employee per pay period for the following Labor Code
12 violations:

- 13 a. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned
14 minimum wage compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*;
- 15 b. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned
16 overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et*
17 *seq.*;
- 18 c. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour
19 of premium pay for meal period violations in violation of Labor Code §§ 226.7 and
20 512;
- 21 d. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour
22 of premium pay for rest period violations in violation of Labor Code §§ 226.7 and
23 512;
- 24 e. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages
25 at end of employment in violation of Labor Code § 203;
- 26 f. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages
27 owed during employment;
- 28 g. Failing to furnish Plaintiff and other similarly Aggrieved Employees with

- complete, accurate, itemized wage statements in violation of Labor Code § 226;
- h. Failing to maintain accurate records relating to Plaintiff and other similarly Aggrieved Employees work periods, meal periods, total daily hours, hours per pay period, and applicable pay rates;
 - i. Failing to provide Plaintiff and other similarly Aggrieved Employees with the amount of sick leave available, or paid time off leave provided in lieu of sick leave and further failed to accurately include such information on itemized wage statements in violation of Labor Code §§ 245.5, 246, and 226;
 - j. Failing to pay Plaintiff and similarly Aggrieved Employees for all earned and unused and accrued vacation time at their final rate of pay at the time of termination of their employment in violation of Labor Code § 227.3;
 - k. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages at the end of employment in violation of Labor Code § 203;
 - l. Defendants' unlawful retaliation against Plaintiff and termination of employment after Plaintiff complained about violations under California's Labor Code in violation of California Labor Code §§ 1102.5(b) and 1102.5(f); and
 - m. Defendants' unlawful retaliation against Plaintiff and termination of employment after Plaintiff complained about violations under California's Labor Code in violation of California Labor Code §§ 98.6(a) and 98.6(b)(3).

43. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which they are entitled to recover under California Labor Code § 2699.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

1. For statutory civil penalties pursuant to Labor Code section 2668, *et seq.*, and as allowed by law and according to proof;

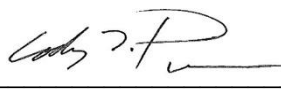
2. For statutory attorneys' fees and costs pursuant to Labor Code sections 2668, et seq.,
and as allowed by law and according to proof;

3. For pre- and post-judgment interest at the maximum legal rate on all amounts claimed;
and

4. For such other and further relief as the Court may deem just and proper.

DATED: January 5, 2021

PAYNE NGUYEN, LLP

By: 

Cody Payne
Kim Nguyen
Attorneys for Plaintiff
JOHNNY CARPENTER

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PAYNE NGUYEN, LLP

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COMPLAINT - Page 10