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and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

FRANK QUIROGA, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FF PROPERTIES II LP; and DOES 1
through 20, inclusive,

Defendants.

Case No. RIC2002563

Assigned for all purposes to Judge Craig G.
Reimer, Department 1

**FIRST AMENDED COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LAB. CODE
§§ 2698, *ET SEQ.*)**

1 Plaintiff Frank Quiroga, individually, and on behalf of other aggrieved employees,
2 alleges:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Frank Quiroga (“Plaintiff”) brings this representative action against
5 defendants FF Properties II LP, and DOES 1 through 20, inclusive (collectively, “Defendants”),
6 on behalf of himself individually and on behalf of the other aggrieved employees of California
7 citizens who are and were employed by Defendants as non-exempt employees throughout
8 California.

9 2. Defendants own and manage properties throughout California.

10 3. Plaintiff is informed and believes that Defendants have increased their profits by
11 violating state wage and hour laws by, among other things:

12 (a) failing to pay overtime wages at the correct of pay;

13 (b) failing to provide lawful meal periods or compensation in lieu thereof;

14 (c) failing to authorize or permit lawful rest breaks or provide compensation
15 in lieu thereof;

16 (d) failing to provide accurate itemized wage statements;

17 4. Plaintiff seeks monetary relief against Defendants on behalf of himself and all
18 others aggrieved employees in California to recover civil penalties pursuant to Labor Code §§
19 2698 *et seq.*, attorneys’ fees, costs and expenses.

20 **JURISDICTION AND VENUE**

21 5. This is a representative PAGA action under California Labor Code § 2698, *et*.
22 *seq.* The monetary penalties sought by Plaintiff exceeds the minimum jurisdictional limits of
23 the Superior Court and will be established according to proof at trial.

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

28 7. This Court has jurisdiction over all Defendants because, upon information and

1 belief, they are citizens of California, have sufficient minimum contacts in California, or
2 otherwise intentionally avail themselves of the California market so as to render the exercise of
3 jurisdiction over them by the California courts consistent with traditional notions of fair play
4 and substantial justice.

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

8 **THE PARTIES**

9 9. Plaintiff is a resident of California and worked for Defendants in California
10 during the relevant time periods as alleged herein.

11 10. Plaintiff is informed and believes that at all times hereinafter mentioned,
12 Defendants were and are subject to the Labor Code and IWC Wage Orders as employers,
13 whose employees were and are engaged throughout this county and the State of California.

14 11. Plaintiff is unaware of the true names or capacities of the defendants sued herein
15 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
16 Complaint and serve such fictitiously named defendants once their names and capacities
17 become known.

18 12. Plaintiff is informed and believes that DOES 1 through 20 are or were the
19 partners, agents, owners, shareholders, managers, or employees of Defendants at all relevant
20 times.

21 13. Plaintiff is informed and believes that each defendant acted in all respects
22 pertinent to this action as the agent of the other defendant, carried out a joint scheme, business
23 plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally
24 attributable to the other defendant. Furthermore, defendants in all respects acted as the
25 employer and/or joint employer of Plaintiff and the aggrieved employees.

26 14. Plaintiff is informed and believes that each and all of the acts and omissions
27 alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through
28 20, acting as the agent or alter ego for the other, with legal authority to act on the other's

1 behalf. The acts of any Defendants were in accordance with, and represent, the official policy
2 of Defendants.

3 15. At all relevant times, Defendants, and each of them, acted within the scope of
4 such agency or employment or ratified every act or omission complained of herein. At all
5 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
6 and all the other Defendants in proximately causing the damages herein alleged.

7 16. Plaintiff is informed and believes that each of the Defendants is in some manner
8 intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and
9 transactions alleged herein.

10 **GENERAL ALLEGATIONS**

11 17. At all relevant times mentioned herein, Defendants employed Plaintiff and other
12 California residents as non-exempt employees at Defendants' California business location(s).

13 18. Defendant employed Plaintiff as a non-exempt employee at Defendants'
14 California business location.

15 19. Defendants continue to employ non-exempt employees within California.

16 20. Plaintiff is informed and believes that at all times herein mentioned, Defendants
17 were advised by skilled lawyers, employees, and other professionals who were knowledgeable
18 about California's wage and hour laws, employment, and personnel practices, and the
19 requirements of California law.

20 21. Defendants knew or should have known that Plaintiff and the other aggrieved
21 employees were entitled to receive certain wages for overtime compensation, including
22 overtime wages for work more than 8 hours a day and 40 hours a week, and any work on a
23 seventh consecutive day of the week. Also, Defendants knew they were supposed to pay
24 overtime wages at one and one-half times Plaintiff's and the other aggrieved employees'
25 regular rate of pay, which Defendants should have determined by factoring in non-discretionary
26 bonuses and commissions it agreed to pay and did pay Plaintiff, and, upon information and
27 belief, the other aggrieved employees. Nevertheless, Defendant failed to pay Plaintiff and, upon
28 information and belief, the other aggrieved employees, overtime wages at the correct rate of

1 pay. Defendants failed to include non-discretionary bonuses, commissions, and other incentive
2 payments in calculating Plaintiff's and, upon information and belief, the other aggrieved
3 employees' regular rates of pay, and thus, did not pay Plaintiff and the other aggrieved
4 employees the proper overtime rate of pay.

5 22. Defendants knew or should have known that they were required to provide
6 Plaintiff and the other aggrieved employees timely, uninterrupted, 30-minute meal periods or
7 the payment of one (1) additional hour of pay at Plaintiff's and the other aggrieved employees'
8 regular rate of pay when Defendants did not provide them timely, uninterrupted 30-minute
9 meal periods. Defendants violated the Labor Code and IWC Wage Orders by failing to provide
10 Plaintiff and the other aggrieved employees as their meal periods or the payment of one (1)
11 additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of pay.
12 However, Defendants failed to provide compliant meal periods. And thus, Plaintiffs and the
13 other aggrieved employees were deprived of compliant meal periods. Thus, they regularly
14 missed meal periods or took late or short meal periods.

15 23. Defendants knew or should have known that they had an obligation to authorize
16 and permit Plaintiff and the other aggrieved employees to take rest breaks or pay them one (1)
17 additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of pay
18 when they did not receive rest breaks. Defendants violated the Labor Code and IWC Wage
19 Orders by failing to permit Plaintiffs and the other aggrieved employees to take their rest
20 breaks and by failing to pay Plaintiff and the other aggrieved employees one (1) additional hour
21 of pay at their regular rates of pay when they did not receive rest breaks. However, Defendants
22 failed to permit and authorize compliant rest breaks. And thus, Plaintiffs and the aggrieved
23 employees were deprived of compliant rest breaks. Thus, they regularly missed rest breaks or
24 took short rest breaks.

25 24. Defendants knew or should have known that the Labor Code entitled Plaintiff
26 and the other aggrieved employees to the timely payment of wages during their employment.
27 Nevertheless, Defendants failed to timely pay Plaintiff and the other aggrieved employees all
28 wages that Defendants owed them during their employment. Indeed, Defendants failed to

1 timely pay Plaintiff and the other aggrieved employees overtime wages at the correct rate of
2 pay during their employment.

3 25. Defendants knew or should have known that Plaintiff and the other aggrieved
4 employees were entitled to receive itemized wage statements that accurately showed their gross
5 and net wages earned, total hours worked, all applicable hourly rates in effect and the number
6 of hours they worked at each hourly rate. Defendants violated the Labor Code by failing to
7 provide Plaintiff and the other aggrieved employees with accurate itemized wage statements.
8 For example, the wage statements Defendants issued to Plaintiff, and, upon information and
9 belief, the other aggrieved employees inaccurately stated: (a) the gross and net wages that
10 Plaintiff and the other aggrieved employees earned; (b) the number of hours Plaintiff and the
11 other aggrieved employees worked; and (c) the proper rate of overtime pay for overtime that
12 Plaintiff and the other aggrieved employees worked.

13 26. Defendants have engaged in a systematic pattern of wage and hour violations
14 under the Labor Code and IWC Wage Orders.

15 27. Plaintiff is informed and believes that Defendants knew or should have known
16 they had a duty to compensate Plaintiff and other aggrieved employees, and Defendants had the
17 financial ability to pay such compensation but willfully, knowingly, and intentionally failed to
18 do so to increase Defendants' profits.

19 28. Therefore, Plaintiff brings this lawsuit seeking monetary against Defendants on
20 behalf of himself and all aggrieved employees to recover attorneys' fees, penalties, costs, and
21 expenses.

22 **FIRST CAUSE OF ACTION**

23 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

24 29. Plaintiff re-alleges and incorporates by reference the previous paragraphs as
25 though fully set forth herein.

26 30. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that
27 provides for a civil penalty to be assessed and collected by the Labor and Workforce
28 Development Agency ("LWDA") or any of its departments, divisions, commissions, boards,

1 agencies, or employees for violation of the Labor Code may, as an alternative, be recovered
2 through a civil action brought by an aggrieved employee on behalf of himself or herself and
3 other current or former employees pursuant to the procedures specified in Labor Code §
4 2699.3.

5 31. For all provisions of the Labor Code except those for which a civil penalty is
6 specifically provided, Labor Code § 2699(f) imposes upon Defendants a civil penalty of one
7 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
8 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
9 pay period in which Defendants violated these provisions of the Labor Code.

10 32. Defendants' conduct violates numerous Labor Code sections, including, but not
11 limited to, the following:

12 (a) violation of Labor Code §§ 204, 210, 510, 1194, and 1198 for failure to timely
13 pay all earned wages (including overtime wages) owed to Plaintiff and other aggrieved
14 employees during employment as herein alleged;

15 (b) violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to
16 Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal
17 periods as herein alleged;

18 (c) violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and
19 other aggrieved employees and failure to pay premium wages for missed rest periods as herein
20 alleged;

21 (d) violation of Labor Code § 226 for failure to provide accurate itemized wage
22 statements to Plaintiff and other aggrieved employees as herein alleged; and

23 (e) violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and
24 complete records showing, among other things, the hours worked daily and the wages paid to
25 aggrieved employees.

26 33. As set forth above, Defendants have violated numerous provisions of the Labor
27 Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly,
28

1 Plaintiff seeks the civil penalties set forth in Labor Code § 558 for himself, the underpaid
2 employees, and the State of California.

3 34. Plaintiff is an “aggrieved employee” because he was employed by the alleged
4 violator and had one or more of the violations committed against him, and therefore is properly
5 suited to represent the interests of all other aggrieved employees.

6 35. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
7 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and
8 all other aggrieved employees under PAGA.

9 36. PAGA imposes a penalty of one hundred dollars (\$100) for each aggrieved
10 employee per pay period for the initial violation and two hundred dollars (\$200) for each
11 aggrieved employee per pay period for each subsequent violation.

12 37. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
13 recover civil penalties in addition to other remedies, for violation of the Labor Code sections
14 cited above.

15 38. For bringing this action, Plaintiff is entitled to attorneys’ fees and costs incurred
16 herein.

17 **PRAYER FOR RELIEF**

18 Plaintiff, on his own behalf and on behalf of all other aggrieved employees, prays for
19 relief and judgment against Defendants, jointly and severally, as follows:

20 1. For civil penalties against Defendants on behalf of all aggrieved employees and
21 the LWDA pursuant to Labor Code § 2698, *et seq.*;

22 2. For reasonable attorneys’ fees, costs of suit, and interest to the extent permitted
23 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code § 2698
24 *et seq.*; and

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

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1 Dated: January 22, 2021

AEGIS LAW FIRM, PC

2
3 By: 

Alexander G.L. Davies

Attorneys for Plaintiff Frank Quiroga

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On January 22, 2021, I served the foregoing document entitled:

- 5 • **FIRST AMENDED COMPLAINT FOR VIOLATION OF THE CALIFORNIA**
6 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL.**
7 **LAB. CODE §§ 2698, ET SEQ.)**

8 on all the appearing and/or interested parties in this action by delivering ☐ *the original*
9 ☒ *a true copy* thereof on the party(ies) addressed below as follows:

10 Theresa A. Kading
11 KADING BRIGGS LLP
12 100 Spectrum Center Drive, Suite 800
Irvine, CA 92618
T: 949.450.9040
F: 949.450.8033
tkading@kadingbriggs.com

13 *Attorneys for Defendant:*
14 FF PROPERTIES II LP

15 ☒ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
16 correspondence for mailing. Under that practice it would be deposited with the U.S.
Postal Service on that same day with postage thereon fully prepaid at Irvine, California
17 in the ordinary course of business. I am aware that on motion of the party served, service
is presumed invalid if postage cancellation date or postage meter date is more than one
day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc. § 1013(a); Fed.*
18 *R. Civ. Proc. 5(a); Fed. R. Civ. Proc. 5(c).*)

19 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
20 practice of Aegis Law Firm PC for collection and processing correspondence for
overnight delivery, and I caused such document(s) described herein to be deposited for
21 delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); Fed. R. Civ. Proc. 5(c).)

22 ☐ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
23 electronic transmission via the above listed email addresses on the date below. (*Cal.*
Code Civ. Proc. § 1010.6(6); Fed. R. Civ. Proc. 5(b)(2)(E); Fed. R. Civ. Proc. 5(b)(3).)

24 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
25 the addressed named above. (*Cal Code Civ. Proc. § 1011; Fed. R. Civ. Proc.*
5(b)(2)(A).)

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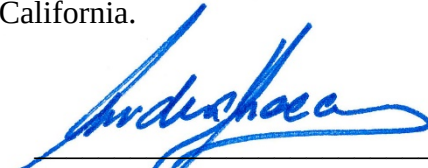
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3 Executed on January 22, 2021, at Irvine, California.
4

5 
6 Andrea Drocco
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