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Assigned for All Purposes
Judge Glenda Sanders

Attorneys for Plaintiff, the Class, and Aggrieved Employees CX-101

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

MARCOS CASTRO, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

vs.

GRAPHIC PACKAGING
INTERNATIONAL, LLC, a Delaware
limited liability company; GRAPHIC
PACKAGING INTERNATIONAL, INC., a
Delaware corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 30-2020-01172807-CU-OE-CXC

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) VIOLATION OF LABOR CODE
§ 226(A);
- (2) VIOLATION OF CAL. LABOR
CODE § 2698, *ET SEQ.*

DEMAND OVER \$25,000.00

1 Plaintiff Marcos Castro (“Plaintiff”) hereby submits this Class and Representative Action
2 Complaint (“Complaint”) against Defendant Graphic Packaging International, LLC, Defendant
3 Graphic Packaging International, Inc., and Does 1 through 50 (collectively, “Defendants”) on
4 behalf of himself and all other similarly situated current and former employees of Defendants,
5 for penalties and/or damages for failure to provide complete and accurate itemized wage
6 statements in violation of the California Labor Code as follows:

7 **INTRODUCTION**

8 1. This class and representative action is within the Court’s jurisdiction under
9 California Labor Code §§ 226 and 2698, *et seq.*

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide complete and accurate itemized
15 wage statements to Plaintiff and Class Members.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 have engaged in, among other things a system of willful violations of the California Labor Code
18 by creating and maintaining policies, practices, and customs that knowingly deny its employees
19 the above stated rights and benefits.

20 **JURISDICTION AND VENUE**

21 5. The Court has jurisdiction over the violations of California Labor Code §§ 226
22 and 2698, *et seq.*

23 6. Venue is proper because Defendants do business in Orange County and Plaintiff
24 worked for Defendants in Orange County, specifically in Irvine, California.

25 **PARTIES**

26 7. Plaintiff was employed by Defendants as a Press Operator from about January 28,
27 2008, until on or about September 9, 2020. Throughout his employment with Defendants,
28 Plaintiff was employed as an hourly, non-exempt employee.

1 8. Plaintiff was and is the victim of the policies, practices, and customs of
2 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
3 by California Labor Code §§ 226 and 2698, *et seq.*

4 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
5 Graphic Packaging International, LLC was and is a Delaware limited liability company that
6 provides paper-based packaging products. Plaintiff is informed and believes, and based thereon
7 alleges, that Defendant operates and maintains business locations and facilities across the State
8 of California, including a facility in Irvine, California.

9 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant
10 Graphic Packaging International, Inc. was a Delaware corporation that is no longer existent in
11 the State of California. Plaintiff is informed and believes, and based thereon alleges, that as of
12 February 15, 2018, Defendant Graphic Packaging International, Inc. has filed a Certificate of
13 Surrender to surrender its rights to conduct business in the State of California with the California
14 Secretary of State.

15 11. Plaintiff is informed and believes and thereon alleges that at all times herein
16 mentioned, Defendants and Does 1 through 50, are and were corporations, business entities,
17 individuals, and partnerships, and/or licensed to do business and actually doing business in the
18 State of California. As such, and based upon all the facts and circumstances incident to
19 Defendants' business, Defendants are subject to California Labor Code §§ 226 and 2698, *et seq.*

20 12. Plaintiff does not know the true names or capacities, whether individual, partner
21 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
22 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
23 Complaint when the true names and capacities are known. Plaintiff is informed and believes,
24 and based thereon alleges, that each of said fictitious defendants were responsible in some way
25 for the matters alleged herein and proximately caused Plaintiff and members of the general
26 public and class to be subject to the illegal employment practices, wrongs, and injuries
27 complained of herein.

28 13. At all times herein mentioned, each of said Defendants participated in the doing

1 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
2 Defendants, and each of them, were the agents, servants and employees of each of the other
3 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
4 acting within the course and scope of said agency and employment.

5 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
6 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
7 joint venturer of, or working in concert with each of the other co-Defendants and was acting
8 within the course and scope of such agency, employment, joint venture, or concerted activity.
9 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
10 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
11 Defendants.

12 15. At all times herein mentioned, Defendants, and each of them, were members of,
13 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
14 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

15 16. At all times herein mentioned, the acts and omissions of various Defendants, and
16 each of them, concurred and contributed to the various acts and omissions of each and all of the
17 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
18 herein mentioned, Defendants, and each of them, ratified each and every act or omission
19 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
20 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
21 damages as herein alleged.

22 CLASS ACTION ALLEGATIONS

23 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
24 California Code of Civil Procedure § 382. Plaintiff proposes the following Class and Sub-Class:

25 a. All current and former employees of Defendants in the State of California who
26 were paid wages, at any time from June 7, 2019, through the present (the "Class"); and

27 b. All current and former non-exempt employees of Defendants in the State of
28 California who were paid shift differential wages, at any time from June 7, 2019, through the

1 present (the “Total Hours Worked Wage Statement Sub-Class”).

2 18. Plaintiff further reserves the right to amend such the class definitions and/or
3 propose additional sub-classes based upon further discovery.

4 19. **Numerosity and Ascertainability:** The members of the Class are so numerous
5 that joinder of all members would be impractical, if not impossible. The identities of the
6 members of the Class are readily ascertainable by review of Defendants’ records, including
7 payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 failed to provide accurate itemized wage statements to its employees that identified: (1) the
9 correct legal name of the entity that is the employer, in violation of Labor Code § 226(a)(8); (2)
10 the correct address of the entity that is the employer, in violation of Labor Code § 226(a)(8); and
11 (3) the correct total hours worked by the employee, whenever shift differential wages were paid,
12 in violation of Labor Code § 226(a)(2).

13 20. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
14 necessary steps to represent fairly and adequately the interests of the Class defined above.
15 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and
16 the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class
17 actions in the past and currently have a number of wage-and-hour class actions pending in
18 California state and federal courts.

19 21. Defendants uniformly administered a corporate policy and practice of failing to
20 provide accurate itemized wage statements to Plaintiff and the Class that identified: (1) the
21 correct legal name of the entity that is the employer, in violation of Labor Code § 226(a)(8); (2)
22 the correct address of the entity that is the employer, in violation of Labor Code § 226(a)(8); and
23 (3) the correct total hours worked by the employee, whenever shift differential wages were paid,
24 in violation of Labor Code § 226(a)(2).

25 22. Plaintiff is informed and believes, and based thereon alleges, that this corporate
26 conduct is accomplished with the advance knowledge and designed intent to willfully and
27 intentionally fail to accurately record the total hours worked, and to identify the correct legal
28 name and address of the employer.

1 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
2 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
3 Labor Code § 226(a).

4 24. **Common Question of Law and Fact:** There are predominant common questions
5 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
6 concerning Defendants' policy and practice of failing to provide accurate itemized wage
7 statements to Plaintiff and the Class that identified: (1) the correct legal name of the entity that is
8 the employer, in violation of Labor Code § 226(a)(8); (2) the correct address of the entity that is
9 the employer, in violation of Labor Code § 226(a)(8); and (3) the correct total hours worked by
10 the employee, whenever shift differential wages were paid, in violation of Labor Code §
11 226(a)(2).

12 25. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
13 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
14 as the Class Members. As with Defendants' other California employees, Plaintiff received wage
15 statements that identified the incorrect legal name of the legal entity that is Plaintiff's employer.
16 In this regard, Plaintiff received wage statements that identified the employer as "Graphic
17 Packaging International, Inc." However, "Graphic Packaging International, Inc." appears to no
18 longer be existent as it has filed a Certified of Surrender with the California Secretary of State.
19 Rather, the correct legal name appears to be "Graphic Packaging International, LLC" which is
20 not identified anywhere on Plaintiff's wage statements. In addition, Plaintiff also received wage
21 statements that did not identify the correct legal address of the employer. In particular, the wage
22 statements identified an incomplete address of the purported employer that only displayed the
23 city and state. The wage statements do not identify the street name and number of the address of
24 the purported employer. Thus, Defendants' wage statements do not comply with Labor Code §
25 226(a)(8). As a separate violation, Plaintiff also received wage statements that violated Labor
26 Code § 226(a)(2). In this regard, as a non-exempt employee, Plaintiff was paid hourly and
27 worked shifts where he received shift differential wages, such as "8HR Shift 2" and "8HR Shift
28 3." However, whenever said shift differential wages were paid to Plaintiff, the corresponding

1 wage statements failed to identify the accurate total hours worked. Similarly, when the hours
2 shown on the wage statements are added up, it does not correspond to the actual total hours
3 worked. Thus, Plaintiff is unable to determine the actual total hours worked by looking at the
4 actual wage statement or by adding up the hours as listed. As such, Plaintiff is a member of the
5 Class and has suffered the alleged violations of California Labor Code § 226(a).

6 26. The California Labor Code upon which Plaintiff bases these claims are broadly
7 remedial in nature. These laws and labor standards serve an important public interest in
8 establishing minimum working conditions and standards in California. These laws and labor
9 standards protect the average working employee from exploitation by employers who may seek
10 to take advantage of superior economic and bargaining power in setting onerous terms and
11 conditions of employment.

12 27. The nature of this action and the format of laws available to Plaintiff and
13 members of the Class identified herein make the class action format a particularly efficient and
14 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
15 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
16 advantage since it would be able to exploit and overwhelm the limited resources of each
17 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
18 Member to pursue an individual remedy would also discourage the assertion of lawful claims
19 by employees who would be disinclined to file an action against their former and/or current
20 employer for real and justifiable fear of retaliation and permanent damage to their careers at
21 subsequent employment.

22 28. The prosecution of separate actions by the individual Class Members, even if
23 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
24 to individual Class Members against the Defendants and which would establish potentially
25 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
26 individual Class Members which would, as a practical matter, be dispositive of the interest of the
27 other Class Members not parties to the adjudications or which would substantially impair or
28 impede the ability of the Class Members to protect their interests. Further, the claims of the

1 individual Class Members are not sufficiently large to warrant vigorous individual prosecution
2 considering all of the concomitant costs and expenses.

3 29. Such a pattern, practice and uniform administration of corporate policy regarding
4 illegal employee compensation described herein is unlawful and creates an entitlement to
5 recovery by Plaintiff and the Class identified herein, in a civil action, for applicable penalties,
6 reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code
7 § 226 and Code of Civil Procedure § 1021.5.

8 30. Proof of a common business practice or factual pattern, which the named Plaintiff
9 experienced and is a representative of, will establish the right of each of the members of the
10 Class to recovery on the causes of action alleged herein.

11 **FIRST CAUSE OF ACTION**

12 **VIOLATION OF LABOR CODE § 226(A)**

13 **(BY PLAINTIFF, THE CLASS, AND THE TOTAL HOURS WORKED WAGE**
14 **STATEMENT SUB-CLASS AGAINST ALL DEFENDANTS)**

15 31. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 as
16 though fully set forth herein.

17 32. Labor Code § 226(a) requires employers to provide itemized wage statements to
18 its employees that identify accurate information, including without limitation, the total hours
19 worked by the employee, and the name and address of the legal entity that is the employer. *See*
20 Cal. Lab. Code § 226(a). Defendants failed in their affirmative obligation to provide accurate
21 itemized wage statements to Plaintiff and other employees in violation of Labor Code § 226(a).

22 33. Defendants have violated Labor Code § 226(a)(8) by issuing inaccurate wage
23 statements to Plaintiff and Class Members that identified the incorrect name of the legal entity
24 that is the employer. In this regard, Plaintiff and Class Members received wage statements that
25 identified the employer as "Graphic Packaging International, Inc." However, "Graphic
26 Packaging International, Inc." is no longer in existence as that entity has filed a Certified of
27 Surrender with the California Secretary of State. Rather, the correct name of the legal entity that
28 is the employer appears to be "Graphic Packaging International, LLC." However, Defendants

1 have failed to identify that name on wage statements issued to Plaintiff and Class Members.

2 34. As a separate violation of Labor Code § 226(a)(8), Defendants have also issued
3 wage statements to Plaintiff and Class Members that do not identify the correct legal address of
4 the employer. In this regard, Defendants only identify the city and state as the address, and do
5 not identify the street name and number portion of the address on the wage statements.

6 35. In addition, Defendants have also violated Labor Code § 226(a)(2) as to Plaintiff
7 and the Total Hours Worked Wage Statement Sub-Class Members. Plaintiff and Total Hours
8 Worked Wage Statement Sub-Class Members are and were paid hourly as non-exempt
9 employees. As such, the wage statements should have reflected the total hours worked as
10 required by Labor Code § 226(a)(2). However, whenever shift differential wages (such as “8HR
11 Shift 2” or “8HR Shift 3” wages) were paid to Plaintiff and Total Hours Worked Wage
12 Statement Sub-Class Members, Defendants identify the inaccurate total hours worked on the
13 wage statements. Moreover, whenever the hours shown on the wage statements are added up,
14 they do not correspond to the actual total hours worked. As a result, Plaintiff and the Total
15 Hours Worked Wage Statement Sub-Class Members cannot determine the total hours worked by
16 looking at the wage statements or by adding up the hours as listed.

17 36. Such a pattern, practice and uniform administration of corporate policy as
18 described herein is unlawful and creates an entitlement to recovery by Plaintiff, the Class, and
19 Total Hours Worked Wage Statement Sub-Class identified herein, in a civil action, for all
20 damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys’ fees,
21 and costs of suit according to the mandate of California Labor Code § 226.

22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

24 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

25 37. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 36, as
26 though fully set forth herein.

27 38. Plaintiff brings this cause of action as a proxy for the State of California and in
28 this capacity, seeks penalties on behalf of all Aggrieved Employees from May 4, 2019, through

the present, for Defendants' violation of Labor Code § 226(a) as alleged above. Specifically, Defendants violated Labor Code § 226(a)(2) and (a)(8) by failing to provide accurate itemized wage statements to Plaintiff and other Aggrieved Employees that identified the total hours worked, and the name and address of the legal entity that is the employer.

39. Plaintiff is an "aggrieved employee" pursuant to Labor Code § 2699, as Plaintiff has suffered the violations of Labor Code § 226(a) alleged above.

40. On or about October 29, 2020, Plaintiff sent written notice to the California Labor & Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code § 226(a), pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). As of the date of the filing of this Complaint, the LWDA has not responded to Plaintiff's written notice nor indicated whether it intends to investigate the Labor Code violations provided for in the written notice. Pursuant to Labor Code § 2699.3, Plaintiff also sent written notice of Defendants' violations of the Labor Code to Defendants via certified mail.

41. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violations of Labor Code § 226(a) for the time period described above, on behalf of himself and other Aggrieved Employees.

PRAYER FOR RELIEF

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

1. For an order certifying the proposed Class and Sub-Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action, for penalties and/or damages pursuant to California Labor Code § 226, *et seq.*, and for interest, costs and attorneys' fees;
5. Upon the Second Cause of Action, for civil penalties according to proof pursuant to the PAGA, Labor Code § 2698, *et seq.*, Labor Code § 226.3, and for costs and attorneys' fees;
6. On all causes of action for attorneys' fees and costs as provided by California Labor Code §§ 226, and 2699, and Code of Civil Procedure § 1021.5; and

1 7. For such other and further relief that the Court may deem just and proper.
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3 DATED: December 2, 2020

DIVERSITY LAW GROUP, P.C.

4 By: 
5 _____

Larry W. Lee

Mai Tulyathan

6 Attorneys for Plaintiff, the Class, and Aggrieved
7 Employees
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