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Assigned for All Purposes  
Judge William Claster

CX-104

Attorneys for Plaintiff and the Class

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

SCOTT DYKSTRA, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

vs.

SHASTA BEVERAGES, INC., a  
Delaware corporation; and DOES 1  
through 50, inclusive,

Defendants.

Case No.: 30-2021-01185282-CU-OE-CXC

**CLASS AND REPRESENTATIVE ACTION  
COMPLAINT:**

- 1. VIOLATION OF LABOR CODE § 226;**
- 2. VIOLATION OF LAB. CODE § 2698, *ET SEQ.***

**DEMAND OVER \$25,000.00**

Plaintiff Scott Dykstra ("Plaintiff") hereby submits this Class and Representative Action  
Complaint ("Complaint") against Defendant Shasta Beverages, Inc. ("Defendant"), and Does 1

1 through 50 (collectively, “Defendants”), as an individual and on behalf of a class of all other  
2 similarly situated current and former employees of Defendant for damages and/or penalties for  
3 violations of the California Labor Code, including without limitation failure to provide accurate  
4 payroll records, as follows:

### 5 **INTRODUCTION**

6 1. This representative action is within the Court’s jurisdiction under California  
7 Labor Code § 226 and the Private Attorneys General Act (“PAGA”), and the applicable Wage  
8 Orders of the California Industrial Welfare Commission (“IWC”).

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

11 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,  
12 jointly and severally, have acted intentionally and with deliberate indifference and conscious  
13 disregard to the rights of all employees by failing to provide and maintain accurate payroll  
14 records for its employees.

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

### 19 **JURISDICTION AND VENUE**

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

22 6. Venue is proper in Orange County because Plaintiff worked for Defendants in  
23 Buena Park, California.

### 24 **PARTIES**

25 7. Plaintiff was employed by Defendants as a facilities/building maintenance worker  
26 from February 11, 2019 to July 24, 2020. Plaintiff worked as an hourly non-exempt employee.

27 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant  
28 complained of in this action in ways that have deprived him of the rights guaranteed by

1 California Labor Code § 226 and 2698, *et seq.*

2 9. Plaintiff is informed and believes, and based thereon alleges, that Shasta  
3 Beverages, Inc. is a Delaware corporation that operates locations in the State of California,  
4 including in Orange County, California.

5 10. Plaintiff is informed and believes, and based thereon alleges, that at all times  
6 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,  
7 and partnerships, licensed to do business and actually doing business in the State of California.  
8 As such, and based upon all the facts and circumstances incident to Defendants' business,  
9 Defendants are subject to the California Labor Code.

10 11. Plaintiff does not know the true names or capacities, whether individual, partner  
11 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,  
12 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this  
13 complaint when the true names and capacities are known. Plaintiff is informed and believes and  
14 based thereon alleges that each of said fictitious defendants was responsible in some way for the  
15 matters alleged herein and proximately caused Plaintiff and members of the general public and  
16 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

17 12. At all times herein mentioned, each defendant participated in the doing of the acts  
18 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,  
19 and each of them, were the agents, servants and employees of each of the other defendants, as  
20 well as the agents of all Defendants, and at all times herein mentioned, were acting within the  
21 course and scope of said agency and employment.

22 13. Plaintiff is informed and believes, and based thereon alleges, that at all times  
23 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or  
24 joint venturer of, or working in concert with each of the other co-Defendants and was acting  
25 within the course and scope of such agency, employment, joint venture, or concerted activity. To  
26 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the  
27 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting  
28 Defendants.

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

4           15.     At all times herein mentioned, the acts and omissions of various Defendants, and  
5 each of them, concurred and contributed to the various acts and omissions of each and all of the  
6 other Defendants in proximately causing the injuries and damages as herein alleged. At all times  
7 herein mentioned, Defendants, and each of them, ratified each and every act or omission  
8 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and  
9 abetted the acts and omissions of each and all of the other Defendants in proximately causing the  
10 damages as herein alleged.

#### 11                           **CLASS ACTION ALLEGATIONS**

12           16.     **Definition:** The named individual Plaintiff seeks class certification, pursuant to  
13 California Code of Civil Procedure § 382, a class of all current and former employees who were  
14 paid wages by Defendants at any time during the period of time from August 26, 2019, through  
15 the present, in the State of California (the “Class”).

16           17.     **Numerosity and Ascertainability:** The members of the Class are so numerous  
17 that joinder of all members would be impractical, if not impossible. The identity of the members  
18 of the Class is readily ascertainable by review of Defendants’ records, including payroll records.  
19 Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide  
20 accurate, itemized wage statements in violation of Labor Code § 226.

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

27           19.     Defendants uniformly administered a corporate policy, practice of failing to  
28 provide accurate, itemized wage statements in violation of Labor Code § 226.

1           20.     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 Labor  
3 Code § 226.

4           21.     **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 in violation of Labor Code § 226.

8           22.     **Typicality:** The claims of Plaintiff are typical of the claims of all members of the  
9 Class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical  
10 manner as the Class Members. Plaintiff and the Class received wage statements that only  
11 identified the legal name, but not the legal address of the employer. As such, Plaintiff is a  
12 member of the Class and has suffered the alleged violations of California Labor Code § 226.

13           23.     The California Labor Code sections upon which Plaintiff bases these claims are  
14 broadly remedial in nature. These laws and labor standards serve an important public interest in  
15 establishing minimum working conditions and standards in California. These laws and labor  
16 standards protect the average working employee from exploitation by employers who may seek  
17 to take advantage of superior economic and bargaining power in setting onerous terms and  
18 conditions of employment.

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

1           25.     The prosecution of separate actions by the individual class members, even if  
2 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect  
3 to individual Class members against the Defendants and which would establish potentially  
4 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to  
5 individual Class members which would, as a practical matter, be dispositive of the interest of the  
6 other Class members not parties to the adjudications or which would substantially impair or  
7 impede the ability of the Class members to protect their interests. Further, the claims of the  
8 individual members of the Class are not sufficiently large to warrant vigorous individual  
9 prosecution considering all of the concomitant costs and expenses.

10           26.     Such a pattern, practice and uniform administration of corporate policy regarding  
11 illegal employee compensation described herein is unlawful and creates an entitlement to  
12 recovery by Plaintiff and the Class identified herein, in a civil action, for applicable penalties,  
13 reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code  
14 §§ 218.5 and 226, and Code of Civil Procedure § 1021.5.

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

18           28.     The Class is commonly entitled to a specific fund with respect to the  
19 compensation illegally and unfairly retained by Defendants. This action is brought for the  
20 benefit of the entire class and will result in the creation of a common fund.

21                               **FIRST CAUSE OF ACTION**

22                               **VIOLATION OF LABOR CODE § 226**

23                               **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

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

26           30.     Defendants failed in their affirmative obligation to provide accurate itemized  
27 wage statements. Defendants, as a matter of policy and practice, did not provide accurate records  
28 in violation of Labor Code § 226(a) by failing to provide accurate payroll records for Plaintiff

1 and the Class.

2 31. Defendants failed to issue accurate wage statements that identify the address of  
3 the legal entity that is the employer, in violation of Labor Code section 226(a)(8). The wage  
4 statements provided to Plaintiff and the Class failed to identify such information. Every wage  
5 statement provided to employees only identified “Shasta Beverages, Inc. Payroll Account” as the  
6 employer name without providing a corresponding address.

7 32. The issuance of inaccurate wage statements caused “injury” under Labor Code  
8 § 226(e) to Plaintiff and Class Members as they cannot accurately verify the true legal address of  
9 their employer.

10 33. Such a pattern, practice and uniform administration of corporate policy as  
11 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class  
12 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,  
13 including interest thereon, attorneys’ fees, and costs of suit according to the mandate of  
14 California Labor Code § 226.

15 **SECOND CAUSE OF ACTION**

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

17 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**  
18 **AGAINST ALL DEFENDANTS)**

19 34. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
20 though fully set forth herein.

21 35. Plaintiff brings this cause of action as a proxy for the State of California and in  
22 this capacity, seeks penalties on behalf of all Aggrieved Employees from May 31, 2019, through  
23 the present, for Defendants’ violations of Labor Code § 226, arising from Defendant’s failure to  
24 provide accurate wage statements to its employees.

25 36. On or about November 25, 2020, Plaintiff sent written notice to the California  
26 Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code  
27 § 226, among others, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act  
28 (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written notice.

37. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violation of Labor Code § 226 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 Classes;
2. For an order appointing Plaintiff as the representative of the Classes as described herein;
3. For an order appointing counsel for Plaintiff as class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 226 and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for civil penalties according to proof pursuant to 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 §§ 218.5 and 226, and Code of Civil Procedure § 1021.5; and
7. For such other and further relief as the Court may deem just and proper.

DATED: February 22, 2021

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee

Max W. Gavron

Attorneys for Plaintiff and the Class