

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: MINER'S ACE HARDWARE, INC., a
(AVISO AL DEMANDADO): California corporation, and DOES 1
through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF: NANCY TAYLOR, on behalf of
(LO ESTÁ DEMANDANDO EL DEMANDANTE): herself and all
"aggrieved employees" pursuant to Labor Code § 2698 et
seq.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)



NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Ventura
800 South Victoria Avenue
Ventura, California 93009

CASE NUMBER:
(Número del Caso):

56-2021-00558252-CU-OE-VTA

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq. #20754
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Gaines & Gaines, APLC

27200 Agoura Road, Suite 101, Calabasas, CA 91301

DATE: 09/22/2021

Brenda L. McCormick Clerk, by

(Fecha)

(Secretario)

Cristal Alvarez

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- | | |
|--|---|
| under: ☐ CCP 416.10 (corporation) | ☐ CCP 416.60 (minor) |
| ☐ CCP 416.20 (defunct corporation) | ☐ CCP 416.70 (conservatee) |
| ☐ CCP 416.40 (association or partnership) | ☐ CCP 416.90 (authorized person) |
| ☐ other (specify): | |

4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Alex P. Katofsky, Esq. SBN: 202754
 Gaines & Gaines, APLC
 27200 Agoura Road, Suite 101, Calabasas, CA 91301
 TELEPHONE NO.: 818-703-8985 FAX NO. (Optional): 818-703-8984
 E-MAIL ADDRESS: alex@gaineslawfirm.com
 ATTORNEY FOR (Name): Plaintiff, Nancy Taylor

FOR COURT USE ONLY



SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA

STREET ADDRESS: 800 South Victoria Avenue

MAILING ADDRESS: 800 South Victoria Avenue

CITY AND ZIP CODE: Ventura, 93009

BRANCH NAME: Ventura Hall of Justice

CASE NAME: Taylor v. Miner's Ace Hardware, Inc., et al.

CASE NUMBER:

56-2021-00558252-CU-OE-VTA

JUDGE:

DEPT.:

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): One (1)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 9/21/21

Alex P. Katofsky, Esq.

(TYPE OR PRINT NAME)



Alex P. Katofsky

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)–Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/
Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care
Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of
Emotional Distress
Negligent Infliction of
Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/
Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse
Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

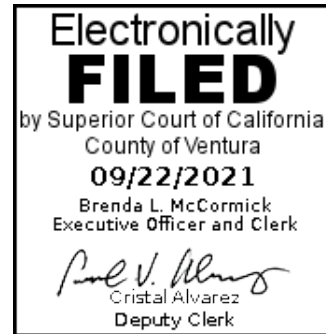
Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition



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Attorneys for Plaintiff Nancy Taylor, 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 VENTURA

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

Plaintiffs,

v.

MINER’S ACE HARDWARE, INC., a
California corporation, and DOES 1 through
10, inclusive,

Defendants.

CASE NO: 56-2021-00558252-CU-OE-VTA

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, 1194,
AND 1198 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3 AND 558**

1 Plaintiff NANCY TAYLOR (“Plaintiff”), on behalf of herself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of MINER’S
3 ACE HARDWARE, INC., a California corporation, and/or any subsidiaries or affiliated companies
4 (hereinafter referred to as “Defendants”), as follows:

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other non-exempt California employees who currently work or formerly worked for
9 Defendants (“Aggrieved Employees”).

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

14 a. Failing to pay Plaintiff and Aggrieved Employees all overtime wages due, in
15 violation of Labor Code §§ 510, 558, and 1194. Defendants paid Plaintiff and Aggrieved Employees
16 bonuses and other forms of non-base hourly wages that were not included in their regular rate of pay
17 for purposes of computing the proper overtime rate. As a result, employees were not properly
18 compensated for work performed in excess of eight (8) hours in a workday and work performed in
19 excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular
20 rate of pay. These failures to pay all overtime wages due constitute violations of Labor Code §§ 510,
21 558, and 1194;

22 b. Failing to pay Plaintiff and Aggrieved Employees compensation in lieu of
23 missed, denied and unauthorized rest periods, in violation of Labor Code § 226.7 and IWC Wage
24 Order 4-2001. Plaintiff and other Aggrieved Employees were unable and not authorized to take paid
25 ten-minute rest periods for every four hours of work or major fraction thereof due to the busy nature
26 of their work schedule. When they were able to take a rest period, they were not permitted to leave
27 the Defendants’ premises and thus, were not free from their employer’s control. This violates Labor
28 Code §§ 226.7 and 558 and IWC Wage Order 4-2001;

1 c. Failing to pay premium wages to Plaintiff and Aggrieved Employees who
2 were denied proper meal periods, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage
3 Order 4-2001. Plaintiff and Aggrieved Employees were routinely denied, and not authorized to take,
4 a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in
5 duration, or a second timely, uninterrupted, 30-minute meal period for every shift worked that
6 exceeded ten hours in duration, but were not paid premium wages of one hour's pay for each missed
7 first or second meal period. When they were provided with a meal period, they were late, cut short or
8 they would be required to work through them. This violates Labor Code §§ 226.7, 510, 512, 558,
9 1194 and IWC Wage Order 4-2001;

10 d. Failing to issue Plaintiff and Aggrieved Employees wage statements that fully
11 and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Plaintiff and
12 other Aggrieved Employees were not paid all overtime wages due and premium meal and rest period
13 wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately
14 state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked,
15 in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§
16 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the
17 corresponding number of hours worked, Labor Code §§ 226(a)(9) and 226.3;

18 e. Failing to to provide suitable seats to Plaintiff and Aggrieved Employees.
19 Many job positions reasonably permit the use of seating, but Defendants did not provide it and
20 Plaintiff and Aggrieved Employees were not permitted to sit down during the course of their
21 employment. This practice violates California Labor Code § 1198 and Wage Order 4-2001, § 14,
22 which provides as follows: “(A) All working employees shall be provided with suitable seats when
23 the nature of the work reasonably permits the use of seats. (B) When employees are not engaged in
24 the active duties of their employment and the nature of the work requires standing, an adequate
25 number of suitable seats shall be placed in reasonable proximity to the work area and employees shall
26 be permitted to use such seats when it does not interfere with the performance of their duties”; and

27 f. Failing to timely pay Plaintiff and Aggrieved Employees all wages due at the
28 separation of their employment based on the time frames required by Labor Code §§ 201 and 202.

1 As stated above, Plaintiff and Aggrieved Employees were not paid all wages due and, as a result of
2 this failure, they were not timely paid all wages due at the separation of their employment. This
3 violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and other Aggrieved Employees
4 who have ended their employment with Defendants.

5 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
6 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

7 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
8 The Labor Code violations alleged against Defendants herein arose throughout California, including
9 in Ventura County, California, where some Aggrieved Employees were and continue to be employed
10 and subject to the claims alleged herein.

11 II.

12 TOLLING AGREEMENT

13 5. Plaintiff and Defendants entered into an agreement to toll the statute of limitations,
14 pursuant to California Code of Civil Procedure § 360.5, from March 3, 2021 through and including
15 October 5, 2021. As such, all periods of limitation (statutory or otherwise) affecting any and all
16 claims or causes of actions which Plaintiff may have against Defendants have been tolled between
17 March 3, 2021 and October 5, 2021.

18 III.

19 PARTIES

20 A. Plaintiff

21 6. Plaintiff NANCY TAYLOR was employed by Defendants in a non-exempt position
22 from July 2013 through October 2020 in California.

23 B. Defendant

24 7. Defendant MINER'S ACE HARDWARE, INC. is a California corporation.
25 Defendant MINER'S ACE HARDWARE, INC., employed Plaintiff and Aggrieved Employees
26 throughout the State of California, including in Ventura County, California.

27 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
28 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who

1 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
2 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
3 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
4 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
5 designated hereinafter as DOES when such identities become known.

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

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

13 **IV.**

14 **CAUSES OF ACTION**

15 **FIRST CAUSE OF ACTION**

16 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
17 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
18 **CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1194, AND 1198**
19 **AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF**
20 **LABOR CODE §§ 226.3 AND 558**

21 11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint as though fully set
22 forth herein.

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

25 13. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
26 penalties and other relief in an amount to be shown at the time of trial subject to the following formula:
27
28

- 1 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
- 2 each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512,
- 3 1194, and 1198; and
- 4 b. Pursuant to Labor Code § 2699(a), the penalties as authorized by Labor Code
- 5 §§ 226.3 and 558.

6 14. Civil penalties recovered will be allocated 75% to the Labor and Workforce

7 Development Agency, and 25% to the affected employees.

8 15. On December 28, 2020, Plaintiff sent a letter, by online submission to the LWDA and

9 by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the

10 violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor

11 Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)

12 calendar days of December 28, 2020. Plaintiff may therefore commence this action to seek civil

13 penalties pursuant to Labor Code § 2698 *et seq.*

14 Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as

15 described below.

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V.

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

Dated: September 21, 2021

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: *Daniel F. Gaines*
DANIEL F. GAINES
EVAN S. GAINES
Attorneys for Plaintiff