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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

STATE OF CALIFORNIA ex rel.
ROSA BRAVO, as Private Attorney
General,

Plaintiff,

v.

THE GARLIC COMPANY; VLC FARM
LABOR, INC.; and DOES 1-25, inclusive,

Defendants.

Case No. BCV-21-101080

Assigned for All Purposes to:

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

Trial Date: None

Complaint filed:

20 COMES NOW Plaintiff STATE OF CALIFORNIA ex rel. ROSA BRAVO as Private
21 Attorney General ("Plaintiff"), who asserts claims against THE GARLIC COMPANY, an
22 unknown entity, VLC FARM LABOR, INC., a California corporation, and DOES 1-25, inclusive
23 (collectively "Defendants" or "Employer") as follows:

24 **INTRODUCTION**

25 1. Plaintiff brings this action under the Labor Code Private Attorneys General Act of
26 2004 ("PAGA"), Labor Code sections 2698, *et seq.*, on behalf of herself, approximately 100
27 similarly situated current and former aggrieved employees employed by THE GARLIC
28 COMPANY, an unknown entity, VLC FARM LABOR, INC., and/or its related entities

1 (“Employer” or “Defendants”) between August 31, 2019, and the resolution of the action
2 (“Statutory Period”), and the People of the State of California (hereinafter collectively
3 “Employees”).¹

4 2. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code,
5 permits an aggrieved employee to recover civil penalties set forth within the California Labor
6 Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil
7 penalties for violations of California Labor Code provisions that do not contain their own civil
8 penalties. Employees bring this civil action to recover civil penalties for the violations identified
9 below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil
10 penalties specifically set forth within the text of the California Labor Code. Those civil penalties
11 are sought for violations committed against Employees of Employers.

12 3. Plaintiff has filed an exhaustion letter with the California Labor and Workforce
13 Development Agency (“LWDA”) providing notice of his intent to bring a private attorneys
14 general action for recovery of penalties under the PAGA. The LWDA has not investigated within
15 the time set forth by statute and Plaintiff is now authorized to bring the present action.

16 **JURISDICTION AND VENUE**

17 4. This Court has jurisdiction over this action pursuant to the California Constitution,
18 Article VI, §10.

19 5. Venue is proper in this Court because this action arises from work performed in
20 Kern County.

21 **PARTIES**

22 6. For all times relevant herein, ROSA BRAVO was an adult individual residing in
23 the State of California. Ms. Bravo is not suing in her individual capacity; he is proceeding herein
24 solely under the PAGA, on behalf of the State of California for all aggrieved employees, including
25 himself and other aggrieved employees.

26 _____
27 ¹ By virtue of Emergency Rule 9, the applicable one-year statute of limitations was tolled
28 178 days between April 6, 2020, and October 1, 2020.

1 7. For all times relevant herein, Plaintiff is informed and believes, and on that basis
2 alleges, that Defendant THE GARLIC COMPANY was and is an unknown business entity with its
3 principal place of business in Kern County, California. Plaintiff proceeds herein against The
4 Garlic Company as both “employer” as defined by applicable statutory and common law
5 standards, as well as under Labor Code 2810.3. Prior to filing this action, Plaintiff gave the Garlic
6 Company more than 30 days’ advance notice of the violations herein.

7 8. For all times relevant herein, Plaintiff is informed and believes, and on that basis
8 alleges, that Defendant VLC FARM LABOR, INC. was and is a California corporation with its
9 principal place of business in Tulare County, California.

10 9. Whenever in this Complaint reference is made to any act, deed, or conduct of
11 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or
12 through one or more of its agents, employees, or representatives, who was actively engaged in the
13 management, direction, control, or transaction of the business and affairs of Defendants.

14 10. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
15 associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and
16 therefore sues said defendants (the “Doe Defendants”) by such fictitious names. Plaintiff will
17 amend this Complaint to insert the true names and capacities of the Doe Defendants at such time
18 as the identities of the Doe Defendants are ascertained.

19 11. Plaintiff is informed and believes, and based thereon alleges, that the Doe
20 Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each
21 other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged
22 directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and
23 accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable
24 to the extent of the liability of Defendants as alleged herein.

25 12. Plaintiff is further informed and believe, and thereon allege, that at all times herein
26 material, each Defendant was completely dominated and controlled by its co-Defendant(s) and
27 each was the alter ego of the other. Whenever and wherever reference is made in this Complaint to
28 any conduct by Defendants, or any of them, such allegations and references shall also be deemed

1 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.
2 Whenever and wherever reference is made to individuals who are not named as defendants in this
3 Complaint, but were employees and/or agents of Defendants, such individuals at all relevant times
4 acted on behalf of Defendants named in this Complaint within the scope of their respective
5 employment or agency with Defendants.

6 **FIRST COUNT**

7 **Failure to Pay Minimum Wages Owed**

8 **(By Plaintiff against All Defendants)**

9 13. Plaintiff incorporates by reference and realleges each and every allegation
10 contained above, as though fully set forth herein.

11 14. Section 1197 provides that “[t]he minimum wage for employees fixed by the
12 commission or by any applicable state or local law, is the minimum wage to be paid to employees,
13 and the payment of a lower wage than the minimum so fixed is unlawful.” “[O]n and after
14 January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per
15 hour.” Cal. Lab. Code, § 1182.12, subd. (a). “[T]he minimum wage for all industries shall not be
16 less than the amounts set forth in this subdivision (1) For any employer who employs 26 or
17 more employees, the minimum wage shall be as follows: (A) From January 1, 2017, to December
18 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour. (B) From January 1, 2018, to
19 December 31, 2018, inclusive,—eleven dollars (\$11) per hour. (C) From January 1, 2019, to
20 December 31, 2019, inclusive,—twelve dollars (\$12) per hour. (D) From January 1, 2020, to
21 December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.” Cal. Lab. Code, § 1182.12,
22 subd. (b).

23 15. Pursuant to Section 1197.1, “(a) Any employer or other person acting either
24 individually or as an officer, agent, or employee of another person, who pays or causes to be paid
25 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an
26 order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
27 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203
28 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)

1 for each underpaid employee for each pay period for which the employee is underpaid. This
2 amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated
3 damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section
4 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
5 (\$250) for each underpaid employee for each pay period for which the employee is underpaid
6 regardless of whether the initial violation is intentionally committed. This amount shall be in
7 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
8 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.”

9 16. Ms. Bravo worked as a sorter and did general work on the line boxing produce.
10 Employees did the same work or other work in the produce industry. Throughout the Statutory
11 Period, Employer failed to pay Employees at least minimum wage for all time worked, including:
12 (1) Time deducted from Employees’ pay at the beginning of the work day in violation of § 221.
13 Employees were required to arrive at the work site approximately 30 minutes before the facility
14 opened and before Employees were permitted to enter the worksite. Employer exercised control
15 over this time and must pay Employees. (2) Hours worked during meal periods. While Employees
16 received meal periods, they were unable to leave the premises yet Employer continued to deduct
17 this time from their pay. Employees had to obtain special permission to leave, for example for
18 doctors’ appointments, but were otherwise unable to leave the premises. Employer exercised
19 control over Employees during their meal periods, plain and simple.

20 17. Consequently, Employer violated the foregoing minimum wage laws.
21 Defendants are subject to all civil penalties and other remedies under the PAGA.

22 **SECOND COUNT**

23 **Failure to Pay Overtime Wages Owed**

24 **(By Plaintiff against All Defendants)**

25 18. Plaintiff incorporates by reference and realleges each and every allegation
26 contained above, as though fully set forth herein.

27 19. “The maximum hours of work and the standard conditions of labor fixed by the
28 commission shall be the maximum hours of work and the standard conditions of labor for

1 employees. The employment of any employee for longer hours than those fixed by the order or
2 under conditions of labor prohibited by the order is unlawful.” Cal. Lab. Code, § 1198.

3 20. Pursuant to the applicable Industrial Welfare Commission Wage Order, employees
4 shall not be employed more than eight (8) hours in any workday or more than 40 hours in any
5 workweek unless the employee receives one and one-half (1 1/2) times such employee's regular
6 rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor
7 constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6)
8 days in any workweek is permissible provided the employee is compensated for such overtime at
9 not less than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours
10 worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first
11 eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and (b)
12 Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any
13 workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day
14 of work in a workweek. (c) The overtime rate of compensation required to be paid to a nonexempt
15 full-time salaried employee shall be computed by using the employee's regular hourly salary as
16 one-fortieth (1/40) of the employee's weekly salary.

17 21. “Any employer or other person acting on behalf of an employer who violates, or
18 causes to be violated, a section of this chapter or any provision regulating hours and days of work
19 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
20 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
21 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
22 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
23 employee for each pay period for which the employee was underpaid in addition to an amount
24 sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

25 22. Because Employees’ hours worked were improperly not counted, Employees
26 accrued additional overtime wages for hours in excess of daily and weekly overtime thresholds
27 that were never paid to Employees.

28 23. Defendants are subject to all civil penalties and other remedies under the PAGA.

1 **THIRD COUNT**

2 **Failure to Provide Compliant Rest Periods or Pay Rest Premiums**

3 **(By Plaintiff against All Defendants)**

4 24. Plaintiff incorporates by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 25. Pursuant to the applicable Industrial Welfare Commission Wage Order, employers
7 must provide non-exempt employees a ten (10) minute duty-free rest period for every four (4)
8 hours worked or major fraction thereof. Duty-free rest periods must be paid. An employer who
9 fails to provide a duty-free rest period must pay the employee an additional one (1) hour of regular
10 pay for each day in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd.
11 (c).

12 26. “Any employer or other person acting on behalf of an employer who violates, or
13 causes to be violated, a section of this chapter or any provision regulating hours and days of work
14 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
15 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
16 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
17 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
18 employee for each pay period for which the employee was underpaid in addition to an amount
19 sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

20 27. Throughout the Statutory Period, Employer maintained an illegal practice of not
21 providing Employees with timely first rest periods. Although work in reality started at 3:30,
22 Employees did not receive their first break until generally 7:00 a.m. with a meal period at 10:00
23 a.m. Employer failed to place Employees’ rest period in the middle of the work period, which it
24 could have done but failed to do. Employer also failed to provide Employees with a proper
25 second or third paid 10-minute rest periods, which were controlled and ordered by managers. As
26 with meal periods, Employees were not allowed to leave the facility during rest periods.
27 Employer had no system for reporting break violations or receiving premium wages under §
28 226.7, and Employer never paid such wages.

28. Defendants are subject to all civil penalties and other remedies under the PAGA.

FOURTH COUNT

Failure to Provide Compliant Meal Periods or Pay Meal Premiums

(By Plaintiff against All Defendants)

29. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

30. “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” Cal. Lab. Code, § 512, subd. (a).

31. Pursuant to Labor Code sections 226.7 and 512, and the applicable Wage Order, duty-free meal periods of no less than thirty (30) minutes are required for all non-exempt employees who work at least five (5) hours in a work period per day. The employee must be free to leave the employer's premises. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Time records of meal periods must be kept. Meal periods must be paid when the employee is not relieved of all duties or free to leave the premises. An employer who fails to provide a duty-free meal period must pay the employee an additional one (1) hour regular pay for each day in which a duty-free meal period is not provided.

32. “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall

1 pay the employee one additional hour of pay at the employee's regular rate of compensation for
2 each workday that the meal or rest or recovery period is not provided." Cal. Lab. Code, § 226.7,
3 subd. (c).

4 33. "Any employer or other person acting on behalf of an employer who violates, or
5 causes to be violated, a section of this chapter or any provision regulating hours and days of work
6 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
7 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
8 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
9 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
10 employee for each pay period for which the employee was underpaid in addition to an amount
11 sufficient to recover underpaid wages." Cal. Lab. Code, § 558, subd. (a).

12 34. Employees incorporate the preceding sections herein. Throughout the Statutory
13 Period, although Employees were entitled to a meal period within the first five (5) hours of work,
14 Employer regularly scheduled Employees' first meal periods after such time and failed to provide
15 a timely second meal period after 10 hours of work as required by law. Moreover, Employees
16 were not free of all control during meal periods and not free to leave the premises. Employer had
17 no system for reporting break violations or receiving premium wages under § 226.7, and
18 Employer never paid such wages.

19 35. Defendants are subject to all civil penalties and other remedies under the PAGA.

20 **FIFTH COUNT**

21 **Inaccurate Wage Statements and Wage Statement Records**

22 **(By Plaintiff against All Defendants)**

23 36. Plaintiff incorporates by reference and realleges each and every allegation
24 contained above, as though fully set forth herein.

25 37. "An employer, semimonthly or at the time of each payment of wages, shall furnish
26 to his or her employee, either as a detachable part of the check, draft, or voucher paying the
27 employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized
28 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,

1 except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable
2 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all
3 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
4 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
5 name of the employee and only the last four digits of his or her social security number or an
6 employee identification number other than a social security number, (8) the name and address of
7 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
8 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
9 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
10 corresponding number of hours worked at each hourly rate by the employee....” Cal. Lab. Code, §
11 226, subd. (a).

12 38. “Any employer who violates subdivision (a) of Section 226 shall be subject to a
13 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an
14 initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
15 citation, for which the employer fails to provide the employee a wage deduction statement or fails
16 to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in
17 this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3.

18 39. Employees incorporate the preceding sections herein. Throughout the Statutory
19 Period, Employer failed to furnish Employees with accurate itemized statements at the time of
20 each payment of wages showing all deductions, the correct gross wages earned, correct total hours
21 worked, correct net wages earned, and the corresponding correct number of hours worked at each
22 applicable hourly rate. Rather than providing statements of actual time worked and a correct
23 payment of wages based thereon, Employer failed to capture and pay Employees for all hours
24 worked, and also failed to capture and pay premium pay for missed meal and rest periods.
25 Consequently, Employer failed to provide Employees accurate itemized wages statements as
26 required by Section 226.

27 40. Throughout the Statutory Period, Employer also violated subdivisions (a), (b), and
28 (c) of Section 226 by failing to issue or maintain or produce upon Employees’ request either a

1 duplicate of the itemized statements provided to Employees or a computer-generated record that
2 accurately shows all of the required information. As for recordkeeping, Employer also failed to
3 keep or produce upon Employees' request accurate records of all hours worked in violation of
4 Labor Code §§ 1174 and 1198 (incorporating the applicable IWC Wage Order which requires
5 accurate records of hours worked and production of records upon employee request). Employees
6 requested their records and Employer ignored their requests.

7 41. Defendants are subject to all civil penalties and other remedies under the PAGA.

8 **SIXTH COUNT**

9 **Untimely Payment of Wages**

10 **(By Plaintiff against All Defendants)**

11 42. Plaintiff incorporates by reference and realleges each and every allegation
12 contained above, as though fully set forth herein.

13 43. Generally, "[a]ll wages, other than those mentioned in Section 201, 201.3, 202,
14 204.1, or 204.2, earned by any person in any employment are due and payable twice during each
15 calendar month, on days designated in advance by the employer as the regular paydays. Labor
16 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
17 between the 16th and the 26th day of the month during which the labor was performed, and labor
18 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
19 between the 1st and 10th day of the following month." Cal. Lab. Code, § 204, subd. (a).

20 44. Generally, "[l]abor performed by a weekly-paid employee during any calendar
21 week and prior to or on the regular payday shall be paid for not later than the regular payday of the
22 employer for such weekly-paid employee falling during the following calendar week. Labor
23 performed by a weekly-paid employee during any calendar week and subsequent to the regular
24 payday shall be paid for not later than seven days after the regular payday of the employer for such
25 weekly-paid employee falling during the following calendar week." Cal. Lab. Code, § 204b.

26 45. Special rules govern agricultural employees, however: "All wages, other than those
27 mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section
28 1140.4, are due and payable twice during each calendar month, on days designated in advance by

1 the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th
2 days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the
3 month during which the labor was performed. Labor performed between the 16th and the last day,
4 inclusive, of any calendar month shall be paid between the first and the seventh day of the
5 following month.” Cal. Lab. Code, § 205.5.

6 46. “In addition to, and entirely independent and apart from, any other penalty
7 provided in this article, every person who fails to pay the wages of each employee as provided in
8 Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty
9 as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each
10 employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred
11 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully
12 withheld.” Cal. Lab. Code, § 210, subd. (a).

13 47. Employees incorporate the preceding sections herein. Rather than timely paying
14 Employees all wages due within the periods set forth above, Throughout the Statutory Period,
15 Employer failed to timely pay Employees for all hours worked and all premium wages.

16 48. Defendants are subject to civil penalties as provided by law..

17 **SEVENTH COUNT**

18 **Failure to Pay Wages at Termination**

19 **(By Plaintiff against All Defendants)**

20 49. Plaintiff incorporates by reference and realleges each and every allegation
21 contained above, as though fully set forth herein.

22 50. “If an employer discharges an employee, the wages earned and unpaid at the time
23 of discharge are due and payable immediately.” Cal. Lab. Code, § 201, subd. (a). “If an employer
24 willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3,
25 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the
26 wages of the employee shall continue as a penalty from the due date thereof at the same rate until
27 paid or until an action therefor is commenced; but the wages shall not continue for more than 30
28 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or

1 who refuses to receive the payment when fully tendered to him or her, including any penalty then
2 accrued under this section, is not entitled to any benefit under this section for the time during
3 which he or she so avoids payment.” Cal. Lab. Code, § 203, subd. (a).

4 51. Employees incorporate the preceding sections herein. Throughout the Statutory
5 Period, Employer failed to pay Employees at least minimum wage, overtime, and all premium
6 wages for all time worked. These wages were owed and due to Employees at the time of their
7 discharge, or within the statutorily prescribed time of Employees’ resignation. Employer did not
8 provide these payments to Employees at the time of termination or within a sufficient time of
9 resignation as required by law. Employer’s failure to timely pay these wages at the time of
10 termination, and failure to pay Employees’ continued wages for the 30-day period thereafter,
11 constitutes a violation of Sections 201 and 203.

12 52. Defendants are subject to civil penalties as provided by law.

13 **PRAYER**

14 WHEREFORE, Plaintiff and Employees pray for judgment against Defendants, as follows:

15 1. For civil penalties pursuant to Labor Code sections 2698, *et seq.* in an amount to
16 be ascertained at trial exceeding \$25,000.

17 2. For reasonable costs and attorneys’ fees; and

18 3. For such other and further relief as the Court deems proper.

19 DATED: May 12, 2021

20 **WORKWORLD LAW CORP.**
A Professional Corporation

21
22
23 By: 
24 **RUBEN ESCOBEDO**
Attorneys for ROSA BRAVO
as Private Attorney General