

ELECTRONICALLY FILED
Superior Court of California
County of Alameda
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Chad Finke, Executive Officer / Clerk of the Court
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Attorneys for Plaintiff Maximillion Archuleta

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

MAXIMILLION ARCHULETA, as an
individual and on behalf of other similarly
situated employees,

Plaintiff,

vs.

DAYLIGHT FOODS, INC., a California
corporation and DOES 1-50, inclusive,

Defendant

Case No.: RG21099539

Assigned for all purposes to: Judge Evelio
Grillo of Department 21

**PRIVATE ATTORNEY GENERAL ACT
CLAIMS**

FIRST AMENDED COMPLAINT FOR:

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

[JURY DEMAND]

1 Plaintiff Maximillion Archuleta (“Plaintiff” or “Mr. Archuleta”) makes the following
2 allegations against Defendant Daylight Foods, Inc. (“DFI”), (referred to herein as herein
3 “Defendant”):

4 **GENERAL ALLEGATIONS**

5 **Parties and Venue.**

6 1. Plaintiff Mr. Archuleta is, and at all relevant times was, a citizen and resident of the
7 County of Alameda in the State of California.

8 2. Plaintiff is informed and believes and on that basis alleges that at all relevant times
9 Defendant Daylight Foods, Inc. (“DFI” or “Defendant”) is a California corporation doing
10 business in the State of California with a principal place of business located at 30200 Whipple
11 Road, Union City, California 94587.

12 3. In light of the facts that the wrongful acts of this defendant occurred and the causes
13 against them arose in Alameda County, State of California, jurisdiction and venue is proper in
14 Alameda County Superior Court.

15 **Doe Allegations.**

16 4. Plaintiff does not presently know the true names and capacities of defendant named as
17 Doe 1 through Doe 50, inclusive. Plaintiff will amend this complaint, setting forth the true
18 names and capacities of these fictitious defendants, when they are ascertained. Plaintiff are
19 informed and believes and on that basis alleges that each of the fictitious defendants have
20 participated in the acts alleged in this complaint to have been done by the named defendants..

21 **Vicarious Liability.**

22 5. Unless otherwise indicated, each defendant herein sued is the agent, co-conspirator, joint
23 venturer, partner, and/or employee of every other defendant and, as alleged, has been acting
24 within the course and scope of said agency, conspiracy, joint venture, partnership, and/or
25 employment, with the knowledge and/or consent of co-defendants, and each of them. Plaintiff is
26 informed and believes and thereon alleges that each defendant has authorized and/or ratified the
27 wrongful activities of each of the remaining defendants.
28

COMMON ALLEGATIONS TO ALL CAUSES OF ACTION

6. Mr. Archuleta worked as a non-exempt employee at Defendants. Defendant DFI is in a business of producing foods from farms to grocers and restaurants.

Defendants Did Not Compensate Employees for Work Time or at End of Employment

7. Defendants had a policy, practice and pattern of failing to compensate employees for all hours worked, including hours that were not properly paid as overtime and minimum wages to Plaintiff, and aggrieved employees as a result of requiring the employees to work off-the-clock when required to walk across the warehouse and then stand in line to complete time recording sheets during meal breaks. Additionally, Plaintiff, and aggrieved employees to arrive at Defendant's worksite but would wait in long lines for above 5 and 10 minutes before being permitted to clock in. Moreover, Plaintiff and aggrieved employees were also forced to work off-the-clock after shifts in order to complete all assigned tasks. Finally, Plaintiff and aggrieved employees were required to utilize their personal vehicles to perform work-related tasks, but were not paid for all of their time. Additionally, other similarly situated employees were required to undergo a mandatory drug test and/or physical examination upon hiring. However, Defendants did not compensate these employees for the time they spent traveling to and from the medical facilities and for the time they spent undergoing the drug testing and/or physical examinations. Defendants did not compensate Mr. Archuleta and aggrieved employees and does not compensate other similarly situated employees for the earned wages and premium wages at the time of termination, acquittal or resignation or end of employment.

Defendants Did Not Provide All Meal Breaks and Rest Breaks

8. Throughout Mr. Archuleta's employment, he worked 5, 6, or 10 hour plus shifts and was not able to take a uninterrupted 30-minute meal break each five hours at a reasonably practicable time nor was he provided a second or third meal break which he was entitled to on the shifts when he worked above 10 and 12 hours shifts about 4 to 5 time each week. Mr. Archuleta and similarly situated employees were required to walk across the warehouse during their meal periods and then stand in line to complete time recording sheets, resulting in shortened and interrupted meal periods. Moreover, throughout Mr. Archuleta's employment, he worked

1 above 4-hour plus shifts and was not authorized or permitted to take an uninterrupted 10-minute
2 rest break each four hours at a reasonably practicable time. Also, Mr. Archuleta and similarly
3 situated employees were required to walk across the warehouse during rest periods, and then
4 stand in line to complete time recording sheets, resulting in interrupted and shortened rest
5 periods. Mr. Archuleta was also required to answer phone calls from his supervisors on his
6 personal cellular phone during his meal and rest breaks.

7 9. Defendants did not compensate Mr. Archuleta with his premium wages when he was
8 subjected to late, short, missed, on-call, interrupted, on-premises or missed meal breaks and rest
9 breaks. Other similarly situated employees deployed to work at Defendants were under the same
10 conditions as Mr. Archuleta Plaintiff is informed and on that basis believes that all other
11 similarly situated employees of.

12 **Defendants Provided Inaccurate Wage Statements**

13 10. Furthermore, throughout Plaintiff's employment, their paystubs did not accurately
14 reflect their applicable total hours worked, net wages earned, gross wages earned, name and
15 address of the legal entity employer and actual applicable wage rate all in violation of California
16 Labor Code Section 226(a), specifically sections 1--9. Due to the fact that Defendants either did
17 not provide any paystubs or excluded the hours worth of work, gross and net wages earned that
18 should have been reflected on their paystubs for off-the-clock work time during pre-shift and
19 post-shift work and work during meal and rest periods or on-call and on-premises meal or rest
20 breaks, or off-the-clock work for time spent working but not compensated for. Furthermore,
21 Defendant failed to include the full name and address of the legal entity that employed Plaintiff,
22 and aggrieved employees. Therefore, their paystubs did not accurately reflect the total hours
23 worked, net wages earned, gross wages earned, accurately depict deductions that should have
24 been taken out and actual applicable wage rate corresponding with the total hours worked as well
25 as the name and address of the legal entity that employed Plaintiff and aggrieved employees.
26 Additionally, Defendant also failed to provide Plaintiff with written notice set forth in the wage
27 statement or separate written statement on the designated pay date with the employee's wages
28 setting forth the amount of paid sick leave available.

11. Plaintiff is informed and on that basis believes that all other similarly situated employees of Defendants were under the same circumstances and conditions of employment as them. Specifically, all other similarly situated employees were not provided with accurate itemized wages statements and received paystubs that did not reflect their applicable total hours worked, gross wages earned, net wages earned, depict deductions, and actual applicable wage rates corresponding with the total hours worked by virtue of excluding hours worked, hourly rates, hours worth of work and name and address of the legal entity employer on their paystubs or the actual applicable wage rate corresponding with the total hours worked. Additionally, Defendant also failed to provide similarly situated employees with written notice set forth in the wage statement or separate written statement on the designated pay date with the employee's wages setting forth the amount of paid sick leave available.

Defendants Failure to Reimburse for Necessary Business Expenses

12. Defendants pressured, encouraged and required Plaintiff and aggrieved employees to use their personal vehicles, cell phone and pay for drug testing and/or physical examination. Moreover, Defendant failed to provide Plaintiff and aggrieved employees with adequate uniforms and protective wear requiring Plaintiff and aggrieved employees to purchase additional protective gear such as sweaters, steel-toed boots, and reflective vests, to keep them safe in the workplace and spend time and money to wash uniforms that they were required to wear at work. Defendants could have reimbursed employees for the costs of their mileage, travel, cellular phone usage, uniform and uniform maintenance expenses, and protective gear but did not.

Defendants Required Aggrieved Employees to Sign Arbitration Agreements as a Condition of Employment

13. Defendants required aggrieved employees to sign arbitration agreements as a condition of employment despite this practice and policy being prohibited under California Labor Code section 432.6

FIRST CAUSE OF ACTION

**(For Violation of the Labor Code Private Attorneys General Act)
(Labor Code §§ 2698, et seq. By Plaintiffs Against All Defendants and DOES 1-50)**

1 14. Plaintiffs hereby incorporates all of the allegations set forth in each of the paragraphs
2 above and below by reference as though set forth in full in this cause of action.

3 15. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a
4 civil penalty to be assessed and collected by the Labor and Workforce Development Agency
5 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees for
6 violation of the code may, as an alternative, be recovered through a civil action brought by an
7 aggrieved employee on behalf of himself and other current or former employees pursuant to the
8 procedures specified in Labor Code § 2699.3.

9 16. For all purposes, Aggrieved Employees for this cause of action shall include all non-
10 exempt employees working non-exempt employees at Defendants during the relevant time
11 period

12 17. For all provisions of the Labor Code except those for which a civil penalty is specifically
13 provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred dollars
14 (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred
15 dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in
16 which Defendants violated these provisions of the Labor Code.

17 18. Defendants’ conduct violates numerous Labor Code sections including, but not limited to
18 the following:

19 (a) Violation of Labor Code §§ 510, 1194 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14

20 Section 3 for Defendants failure to provide Plaintiff and other aggrieved employees all
21 minimum wages for hours worked;

22 (b) Violation of Labor Code §§ 510, 1194 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14,

23 Section 3, for Defendants failure to provide Plaintiff and other aggrieved employees all
24 overtime wages for hours worked;

25 (c) Violation of Labor Code §§ 226.7, 512, 1198 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14,

26 Section 11, for Defendants failure to provide Plaintiff and other aggrieved employees all
27 required legally compliant meal periods, and Defendants’ failure to provide Plaintiff and
28 other aggrieved employees with one hour of pay of Plaintiff and other aggrieved

employees' regular rate of compensation for each meal period that was not provided, as herein alleged;

(d) Violation of Labor Code §§ 226.7, 512, 1198 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 12 for Defendants failure to provide Plaintiff and other aggrieved employees all required rest periods, and Defendants' failure to provide Plaintiff and other aggrieved employees with one hour of pay of Plaintiff and other aggrieved employees' regular rate of compensation for each rest period that was not provided, as herein alleged;

(e) Violation of Labor Code §§ 226, 226.3, 1198 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14 Section 7 for failure to maintain records and provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;

(f) Violation of Labor Code § 210 for failure to pay timely wages to Plaintiff and other aggrieved employees as herein alleged;

(g) Violation of Labor Code § 221 for unlawfully receive wages;

(h) Violation of Labor Code §§ 201, 202, and 203 for failure to pay all wages upon termination, resignation or end of employment as a result of failing to pay minimum wages and overtime wages for all hours worked; and

(i) Violation of Labor Code § 432.6

(j) Violation of Labor Code § 2802 for failure to reimburse for necessary business expenses.

(k) Violation of Labor Code §§ 6401 and 6403 for failure to provide safety devices.

19. Further, Labor Code § 558(a) provides "any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages, (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages. (3) Wages recovered pursuant to this section shall be

1 paid to the affected employee.” Labor Code § 558(c) provides “the civil penalties provided for in
2 this section are in addition to any other civil or criminal penalty provided by law.”

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

6 21. On February 26, 2021 Plaintiff provided notice of Mr. Archuleta’s claims to the
7 California Labor and Workforce Development Agency (“LWDA”) submitted the applicable
8 filing fee pursuant to Labor Code section 2699.3(a)(1)(B). We served an additional amended
9 notice on March 12, 2021 to Defendant’s updated address. These notices alleged the facts
10 and theories of its Labor Code violations. Plaintiffs submitted this notice to the Labor Workforce
11 Development Agency via online along with a payment of \$75.00. Plaintiff’s statute of limitations
12 to file a Private Attorney General Act claim was tolled pending the 65 calendar day exhaustion
13 period. (See Cal. Lab. Code § 2699.3(d). Plaintiffs have therefore exhausted the procedural
14 requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim
15 for penalties on behalf of himself and all other aggrieved employees under PAGA.

16 22. Labor Code §§ 2698, et seq. imposes upon Defendants, a penalty of one hundred dollars
17 (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred
18 dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in
19 which Defendants violated the Labor Code.

20 23. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff on behalf of all other
21 aggrieved employees is entitled to recover civil penalties against Defendants for violations of the
22 Labor Code sections cited above.

23 24. The California Supreme Court has held that a representative action does not need to meet
24 the class certification requirements because it is strictly a state enforcement action. *Arias v.*
25 *Superior Court*, 46 Cal.4th 969, 970-75 (2009).

26 25. Defendants’ conduct as alleged herein, has been sand continues to be unfair, unlawful
27 and harmful to Plaintiff and the general public. Plaintiff seeks to enforce important rights
28 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays individually and on behalf of the proposed aggrieved
3 employees, prays for judgment against Defendants as follows:

4 **First Cause of Action:**

- 5 1. For civil penalties against Defendants on behalf of all aggrieved employees pursuant to
6 Labor Code §§ 2698, et seq.;
- 7 2. For reasonable attorney's fees and costs of suit to the extent permitted by law, including
8 pursuant to Code of Civil Procedure § 1021.5 and Labor Code §§ 2698, et seq.; and
- 9 3. For such relief as the Court deems just and proper.

10
11 **As to All Causes of Action:**

- 12 4. For reasonable attorneys' fees and costs incurred
- 13 5. Interest accrued to date under the California Labor Code, including under Sections 226.7;
- 14 6. For such other and further relief as this Court may deem just and proper.

15
16 Dated: July 29, 2022

Jackson Law, APC

17 By: /s/ Armond M. Jackson
18 Armond M. Jackson
19 Attorneys for Plaintiff Maximillion
Archuleta

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff Maximillion Archuleta demands a jury trial in the above captioned matter.

22
23
24 Dated: July 29, 2022

Jackson Law, APC

25 By: /s/ Armond M. Jackson
26 Armond M. Jackson
27 Attorneys for Plaintiff Maximillion
28 Archuleta

PROOF OF SERVICE
SUPERIOR COURT OF STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 2 Venture Plaza Ste. 240, Irvine, California, 92618.

On October 3, 2022 referring to the foregoing document described as:

FIRST AMENDED COMPLAINT

Was served on the interested parties in this action:

Lewis Brisbois Bisga Ard & Smith LLP Joseph R. Lordan Joseph.Lordan@lewisbrisbois.com Sumy Kim Sumy.Kim@lewisbrisbois.com 333 Bush Street, Suite 1100 San Francisco, California 94104 Telephone: 415.362.2580	Attorney for Defendant Daylight Foods, Inc.
Capstone Law APC Bevin A. Pike bevin.Pike@capstonelawyers.com Daniel Jonathan danieljonathan@capstonelawyers.com Trisha K. Monesi trisha.Monesi@capstonelawyers.com 1875 Century Park East, Suite 1000 Los Angeles, California 90067 Telephone: 310.556.4811.	Attorney for Plaintiff Maximillion Archuleta

(XX) **[BY EMAIL OR ELECTRONIC TRANSMISSION]** –I caused all of the pages of the above-entitled document created as a portable document file format and attached to a properly addressed electronic mail message to be sent to the interested parties in this action on the date specified below. The email address I used is noted above

Executed on October 3, 2022, at Irvine, California.

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

10/3/2022 Yulisa Garcia

/s/Yulisa Garcia

DATE (TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

FIRST AMENDED COMPLAINT