

SUMMONS (CITACION JUDICIAL)

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

NOTICE TO DEFENDANT: RETAIL SERVICES WIS CORP., a
(AVISO AL DEMANDADO): Delaware corporation, and DOES 1
through 10, inclusive

ELECTRONICALLY FILED
Merced Superior Court
4/21/2021 2:58 PM
Amanda Toste
Clerk of the Superior Court
By: Nengsy Moua, Deputy

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

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 Merced
2260 N Street
Merced, California 95340

CASE NUMBER:
(Número del Caso): 21CV-01346

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq. #202754
(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: 4/21/2021 2:58 PM
(Fecha)

Amanda Toste

Clerk, by
(Secretario)

818-703-8985
Nengsy Moua Deputy
(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.: 818-703-8984 ATTORNEY FOR (Name): Plaintiff, Marisa Silva		FOR COURT USE ONLY ELECTRONICALLY FILED Merced Superior Court 4/21/2021 2:58 PM Amanda Toste Clerk of the Superior Court By: Nengsy Moua, Deputy	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MERCED STREET ADDRESS: 2260 N Street MAILING ADDRESS: 627 W. 21st Street CITY AND ZIP CODE: Merced, 95340 BRANCH NAME: Main Merced Courthouse			
CASE NAME: Silva v. Retail Services Wis Corp., et al.			
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)	CASE NUMBER: 21CV-01346
			JUDGE: DEPT:

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)
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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: 4/21/21

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

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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 Marisa Silva, 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 MERCED**

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

Plaintiff,

v.

RETAIL SERVICES WIS CORP., a Delaware
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: 21CV-01346

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, 1174,
1174.5, 1194, AND 2802 AND PURSUANT
TO LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3
AND 558**

1 Plaintiff MARISA SILVA ("Plaintiff"), on behalf of herself and others as an "aggrieved
2 employee" under the Labor Code Private Attorneys General Act of 2004, complains of RETAIL
3 SERVICES WIS CORP., a Delaware 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 properly compute bonus wages and other non-base hourly wages
15 earned by Plaintiff and other Aggrieved Employees into their regular rate of pay for purposes of
16 paying them overtime at the correct rates, in violation of Labor Code §§ 510, 558 and 1194.
17 Defendants failed to properly blend bonus wages and other non-base hourly wages and instead paid
18 Plaintiff and other Aggrieved Employees overtime based *only* on the base hourly rate of pay, thus
19 depriving Plaintiff and other Aggrieved Employees of all overtime wages earned, in violation of
20 Labor Code §§ 510, 558 and 1194;

21 b. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were
22 denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 4-2001.
23 Plaintiff and all other Aggrieved Employees were routinely not authorized and unable to take an off-
24 duty 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not
25 paid premium wages of one hour's pay for each missed rest period. When Plaintiff and other
26 Aggrieved Employees did receive a rest period, it would only be when they would commute between
27 jobsites, which is not a rest period at all. This violates Labor Code §§ 226.7 and 558 and IWC Wage
28 Order 4-2001;

1 c. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
2 were denied meal periods, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order
3 4-2001. Plaintiff and Aggrieved Employees were routinely denied, and not authorized to take, a
4 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. As with rest periods, when Plaintiff and other Aggrieved Employees did
8 receive a meal period, it would only be when they would commute between jobsites, which is not a
9 meal period at all. Defendants also fail to maintain meal period records. This violates Labor Code §§
10 226.7, 512, 558, 1174 and 1174.5 and IWC Wage Order 4-2001;

11 d. Failing to reimburse all business-related expenses to Plaintiff and other
12 Aggrieved Employees, in violation of Labor Code § 2802. Plaintiff and Aggrieved Employees were
13 required to use their personal automobiles to commute between jobsites and personal cellular phone
14 to make calls for Defendants' benefit, but were not fully reimbursed by Defendants for these expenses,
15 including, but not limited to, gas, maintenance, insurance, and cellular phone expense. This practice
16 violates Labor Code § 2802;

17 e. Failing to provide Plaintiff and Aggrieved Employees with wage statements
18 that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiff and
19 Aggrieved Employees were not paid all wages due, including all overtime wages and meal and rest
20 period premium wages due, as stated above. As such, the wage statements provided by Defendants
21 failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3,
22 total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation
23 of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period
24 and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3.
25 Further, and independent of the above allegations, the wage statements provided to Plaintiff and other
26 Aggrieved Employees failed to set forth all applicable hourly rates in effect during the pay period and
27 the corresponding number of hours worked, Labor Code §§ 226(a)(9) and 226.3. The wage statements
28 simply omit any applicable overtime rates; and

1 f. Failing to timely pay Plaintiff and other Aggrieved Employees all wages due
2 at the separation of her employment based on the time frames required by Labor Code §§ 201 and 202.
3 As stated above, Plaintiff and Aggrieved Employees were not paid all wages due during the course of
4 their employment and, as a result of this failure, they were not timely paid all wages due at the
5 separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of other
6 non-exempt Aggrieved Employees who have ended their employment with Defendants.

7 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
8 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

9 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
10 The Labor Code violations alleged against Defendants herein arose in Merced County, California.

11 II.

12 PARTIES

13 A. Plaintiff

14 5. Plaintiff MARISA SILVA was employed by Defendants from November 2020
15 through January 2021 as a non-exempt employee in Merced County, California.

16 B. Defendant

17 6. Defendant RETAIL SERVICES WIS CORP., is a Delaware corporation. Defendant
18 RETAIL SERVICES WIS CORP. employed Plaintiff and Aggrieved Employees throughout the State
19 of California, including Merced County, California.

20 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
21 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
22 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
23 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
24 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
25 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
26 designated hereinafter as DOES when such identities become known.

27 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
28 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,

1 business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally
2 attributable to the other Defendants.

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

6 **III.**

7 **CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**

9 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
10 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
11 **CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, 1194, AND 2802 AND PURSUANT**
12 **TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

13 10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set
14 forth herein.

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

17 12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
18 penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

19 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
20 each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512,
21 1174, 1174.5, 1194, and 2802; and

22 b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code
23 §§ 226.3 and 558.

24 13. Civil penalties recovered will be allocated 75% to the Labor and Workforce
25 Development Agency, and 25% to the affected employees.

26 14. On February 11, 2021, Plaintiff sent a letter, by online submission to the LWDA and
27 by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the
28 violations alleged against Defendant, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor

1 Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)
2 calendar days of February 11, 2021. Plaintiff may therefore commence this action to seek civil
3 penalties pursuant to Labor Code § 2698 *et seq.*

4 Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as
5 described below.

6 **IV.**

7 **RELIEF REQUESTED**

8 WHEREFORE, Plaintiff prays for the following relief:

- 9 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
10 Aggrieved Employees;
- 11 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
12 and other applicable law;
- 13 3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable
14 law; and
- 15 4. Such other and further relief as this Court may deem just and proper.

16 Dated: April 21, 2021

Respectfully submitted,

17 GAINES & GAINES
18 A Professional Law Corporation

19 By: Daniel F. Gaines
20 DANIEL F. GAINES
21 EVAN S. GAINES
22 Attorneys for Plaintiff
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27
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