

From 213.488.6554

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

DOUGLAS WALKER, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

PEET'S COFFEE, INC., a Virginia corporation
limited liability company; and DOES 1 through
50, inclusive,

Defendants.

FILED BY FAX

ALAMEDA COUNTY

June 08, 2021

CLERK OF
THE SUPERIOR COURT
By Milagros Cortez, Deputy

CASE NUMBER:

RG21095499

Case No. RG21095499

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

- (1) **Inaccurate Itemized Wage Statements**
(Lab. Code § 226(a), 226.2); and
(2) **Violations of the California Labor Code**
(Lab. Code §§ 2698 et seq.)

DEMAND OVER \$25,000.00

1 On behalf of himself and other similarly situated current and former employees of Defendants,
2 and as a proxy for the State of California, Plaintiff, Douglas Walker, submits this First Amended Class
3 and Representative Action Complaint against Defendant, Peet's Coffee, Inc., and Does 1 through 50
4 (collectively, "Defendants").

5 INTRODUCTION

6 1. This class and representative action challenges systemic employment practices resulting
7 in violations of the California Labor Code against individuals who worked for Defendants. The
8 Complaint addresses Defendants' violations of Labor Code section 226.¹ Plaintiff is informed and
9 believes that Defendants have jointly and severally acted intentionally and with deliberate indifference
10 and conscious disregard to the rights of employees.

11 2. Defendants routinely fail to provide accurate itemized wage statements to Plaintiff and
12 other employees. First, Defendants furnish wage statements that fail to show all applicable hourly rates
13 of pay and the corresponding number of hours worked at each rate. For example, Plaintiff and other
14 employees receive wage statements that do not show the overtime rate of pay. Second, Defendants fail
15 to show the inclusive dates of the period paid. Instead, Plaintiff and other employees receive wage
16 statements that show a "Period End" date but no "Period Start" date.

17 JURISDICTION AND VENUE

18 3. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
19 Defendants' violations of Section 226.

20 4. Venue is proper in the County of Alameda. Plaintiff works for Defendants in Oakland.

21 PARTIES

22 5. Plaintiff began his employment with Defendants in or about August of 2014. Throughout
23 his employment, Plaintiff has received wage statements that do not show all applicable hourly rates of
24 pay, including overtime rates, or the "Period End" date. Plaintiff cannot determine from wage
25 statements whether he has been properly paid, including for example whether his "General Bonus" or
26 "Covid Bonus OT" have been properly compensated (or whether Plaintiff's regular rate of pay,
27 overtime wages, or sick pay wages have been properly calculated and paid). Plaintiff thus is a victim of
28

¹ Except as otherwise noted, all "Section" references are to the Labor Code.

1 the policies, practices, and customs of Defendants complained of in this action in ways that have
2 deprived him of the rights guaranteed by the Labor Code.

3 6. Plaintiff is informed and believes that Defendant, Peet's Coffee, Inc., was and is a
4 Virginia corporation. Plaintiff is informed and believes that at all times herein mentioned named
5 defendants and Does 1 through 50, were and are corporations, business entities, individuals, or
6 partnerships that are and were licensed to do business and actually doing business in the State of
7 California. Based upon all the facts and circumstances incident to Defendants' business, Defendants are
8 subject to Section 226.

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

15 8. At all times herein mentioned, each of said Defendants participated in the doing of the
16 acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of
17 the other Defendants, as well as the agents of all Defendants, and were acting within the course and
18 scope of said agency and employment.

19 9. Plaintiff is informed and believes that at all times material hereto, each of said
20 Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with,
21 each of the other Defendants and was acting within the course and scope of such agency, employment,
22 joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by
23 certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or
24 omissions of the acting Defendants.

25 10. Plaintiff is informed and believes that at all times material hereto each of the Defendants
26 (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the
27 alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in
28 pursuance of, a joint venture, partnership, or common enterprise.

1 **CLASS ACTION ALLEGATIONS**

2 11. **Definition:** Pursuant to Code of Civil Procedure section 382, Plaintiff seeks class
3 certification of the following class and sub-class: (i) all current and former non-exempt employees of
4 Defendants in the State of California at any time since April 14, 2020 (the “Class”), and (ii) all current
5 and former non-exempt employees of Defendants in the State of California who were paid overtime
6 wages at any time since April 14, 2020 (the “Sub-Class”).

7 12. **Numerosity and Ascertainability:** The members of the Class are so numerous that
8 joinder of all members would be impractical, if not impossible. The identities of the members of the
9 Class are readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is
10 informed and believes that Defendants violate Section 226 against Plaintiff and the Class by failing to
11 furnish wage statements that show all applicable hourly rates of pay and the corresponding number of
12 hours worked at each rate, or the inclusive dates of the pay period.

13 13. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
14 represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready,
15 willing, and able to fully and adequately represent Plaintiff and the Class. Plaintiff’s attorneys have
16 prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-
17 and-hour class actions currently pending in California state and federal courts.

18 14. **Common Question of Law and Fact:** There are predominant common questions of law
19 and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is
20 informed and believes that Defendants uniformly administer a corporate policy and practice of routinely
21 failing to furnish wage statements that show all applicable hourly rates of pay and the corresponding
22 number of hours worked at each rate, or the inclusive dates of the pay period.

23 15. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class
24 in that Plaintiff suffered the alleged harms in a similar and typical manner as other members of the Class
25 suffered. As with other members of the Class, Plaintiff receives wage statements that do not show all
26 applicable hourly rates of pay, including overtime rates, or the “Period End” date. Plaintiff thus is a
27 member of the Class and has suffered the alleged violations of the Labor Code.

1 16. The Labor Code is broadly remedial in nature. Its laws serve an important public interest
2 in establishing minimum working conditions and requirements in California. These labor standards
3 protect employees from onerous terms and conditions of employment or exploitation by employers who
4 have superior economic and bargaining power.

5 17. The nature of this action and the format of laws available to Plaintiff and members of the
6 Class make the class action format a particularly efficient and appropriate procedure to redress the
7 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate
8 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and
9 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and
10 legal resources. Requiring each member of the Class to pursue an individual remedy would also
11 discourage the assertion of lawful claims by employees who would be disinclined to file an action
12 against their former or current employer for real and justifiable fear of retaliation and permanent
13 damage to their careers at their current or subsequent employment.

14 18. The prosecution of separate actions by individual members of the Class, even if possible,
15 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
16 members of the Class that would establish potentially incompatible standards of conduct for
17 Defendants, or (b) adjudications with respect to individual members of the Class that would, as a
18 practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests
19 of other members of the Class not parties to the adjudications. Further, the claims of the individual
20 members of the Class are not sufficiently large to warrant vigorous individual prosecution considering
21 the concomitant costs and expenses.

22 19. Defendants' pattern, practice, and uniform administration of corporate policy in violation
23 of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the
24 rights of Plaintiff and the Class under Section 226, applicable IWC Wage Orders, and Code of Civil
25 Procedure section 1021.5, among other provisions, to recover applicable penalties, reasonable attorneys'
26 fees, and costs of suit.

1 **FIRST CAUSE OF ACTION**

2 **Inaccurate Itemized Wage Statements (Lab. Code § 226(a))**

3 **(By Plaintiff and the Class Against All Defendants)**

4 20. The preceding paragraphs are re-alleged and incorporated by this reference.

5 21. Section 226(a) requires an employer to furnish to its employee's wage statements that
6 itemize and show accurate information, including without limitation, all applicable hourly rates in effect
7 during the pay period and the corresponding number of hours worked at each hourly rate by the
8 employee as well as the inclusive dates of the period paid.

9 22. As a matter of policy and practice, Defendants fail to furnish accurate itemized wage
10 statements to Plaintiff and the Class. Specifically, as a matter of policy and practice, Defendants furnish
11 wage statements that fail to show all applicable hourly rates of pay and the corresponding number of
12 hours worked at each rate. For example, Plaintiff and other employees receive wage statements that do
13 not show the overtime rate of pay. As a matter of policy and practice, Defendants also fail to show the
14 inclusive dates of the period paid. Instead, Plaintiff and other employees receive wage statements that
15 show a "Period End" date but no "Period Start" date.

16 23. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
17 entitles Plaintiff and the Class to recover applicable penalties, attorneys' fees, and costs of suit.

18 **SECOND CAUSE OF ACTION**

19 **Violation of Labor Code §§ 2698 Et Seq.**

20 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

21 24. The preceding paragraphs are re-alleged and incorporated by this reference.

22 25. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698
23 et seq. ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this
24 capacity, Plaintiff seeks penalties for Defendants' violations of Section 226 committed since April 14,
25 2020, against all aggrieved employees. Under Section 2699(c), Plaintiff is an "aggrieved employee," as
26 one or more of the alleged violations was committed against Plaintiff as an employee of Defendants. As
27 stated herein, Defendants fail to provide accurate itemized wage statements.

26. On or about April 14, 2021, Plaintiff sent written notice to the Labor & Workforce Development Agency (“LWDA”) of facts and theories for Defendants’ violations of Sections 226. Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the filing of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the allegations in the written notice.

27. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all applicable penalties for Defendants' violations against all aggrieved employees for the period described above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action for penalties pursuant to Section 226, and for costs and attorneys' fees;
5. Upon the Second Cause of Action for penalties according to proof pursuant to Sections 226.3 and 2699, and for costs and attorneys' fees;
6. Upon each cause of action for attorneys' fees and costs as provided by Sections 226 and 2699, and Code of Civil Procedure section 1021.5; and
7. For such other and further relief that the Court may deem just and proper.

DATED: June 7, 2021

DIVERSITY LAW GROUP, P.C.

By: _____

Larry W. Lee
Simon L. Yang
Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On June 7, 2021, I served the following document(s) described as: **FIRST**
11 **AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested
12 parties in this action as follows:

13 Alexander M. Chemers
14 alexander.chemers@ogletree.com
15 Atticus Lee
16 atticus.lee@ogletree.com
17 Sally I. Navarrete
18 sally.navarrete@ogletreedekins.com
19 OGLETREE, DEAKINS, NASH, SMOAK &
20 STEWART, P.C.
21 400 South Hope Street, Suite 1200
22 Los Angeles, CA 90071
23 *Attorney for Defendant Peet's Coffee, Inc.*

24 X BY MAIL: by placing _____ the original or X a true and correct
25 copy thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the
26 attached mailing list. I am readily familiar with the firm's practice for collection and processing
27 of correspondence and other materials for mailing with the United States Postal Service. On this
28 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for
collection and mailing on this date at the address above following our office's ordinary business
practices. The envelope(s) will be deposited with the United States Postal Service on this date,
in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the
above is true and correct. Executed on June 7, 2021, at Los Angeles, California.

27 
28 Erika Mejia