

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BENITO

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ALFRED VALENZUELA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BENITO

ALFRED VALENZUELA, as an “aggrieved
employee” and on behalf of “aggrieved
employees” under the California Labor Code
Private Attorneys General Act,

Plaintiff,

v.

INFINITY STAFFING SERVICES, INC.; and
DOES 1 through 10, inclusive,

Defendants.

Case No: **CU-21-00115**

REPRESENTATIVE ACTION

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

- 1. PENALTIES, and**
- 2. ATTORNEYS’ FEES**

1 Plaintiff ALFRED VALENZUELA (“Plaintiff”), on behalf of himself and all other
2 aggrieved employees, complains against Defendants INIFINTY STAFFING SERVICES, INC.
3 and Does 1 through 10 (all referred to collectively as “INFINITY STAFFING” or “Defendants”)
4 as follows:

5 **I. JURISDICTION AND VENUE**

6 1. This Court has subject matter jurisdiction over Plaintiff’s claims, based on, among
7 other statutes, Labor Code §§ 201, 202, 203, 204b, 226(a), 226.3, 510, 1194, 1198, and 1199.
8 Plaintiff has complied with all requirements set forth in Labor Code § 2699.3 necessary to
9 commence a civil action seeking Labor Code § 2699 penalties.

10 2. This Court has personal jurisdiction over the parties because Plaintiff is a
11 California resident who worked in California for Defendants and Defendants have systematically
12 and continuously conducted business in the State of California, including in this County.

13 3. Venue is proper in this Court under California Code of Civil Procedure § 395.5
14 because Defendants’ principal place of business listed on the Secretary of State’s webpage is
15 located in San Benito County at 710 Kirkpatrick Court, Hollister, California 95023.

16 **II. PARTIES AND BACKGROUND**

17 4. Plaintiff ALFRED VALENZUELA is a California resident. Plaintiff ALFRED
18 VALENZUELA worked for INFINITY STAFFING as a non-exempt, hourly landscaper from
19 approximately July 2020 through January 2021.

20 5. Defendant INFINITY STAFFING is a California corporation doing business
21 throughout California, and is a “person” as defined by Labor Code § 18 and California Business
22 and Professions Code § 17201. In addition, it is an “employer” as that term is used in the Labor
23 Code and in the Industrial Welfare Commission’s (hereinafter referred to as “IWC”) Wage Orders
24 regulating wages, hours, and working conditions.

25 6. Plaintiff is ignorant of the true names and capacities of Defendants sued as Does 1
26 through 10, inclusive, and therefore sues those Defendants by those fictitious names. Plaintiff
27 will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is
28 informed and believes and on that ground alleges that each of the fictitiously named Defendants

are responsible in some manner for the occurrences alleged and that Plaintiff's damages and other losses as alleged are proximately caused by those occurrences.

7. Plaintiff bring this action on behalf of all aggrieved employees within the meaning of Labor Code §§ 2698, *et seq.* who worked as hourly employees in California. Plaintiff seeks all penalties within the applicable limitations period for each violation of: (1) Labor Code §§ 510, 1194, 1198 and 1199 (failure to pay overtime at the correct rate); (2) Labor Code §§ 226(a) and 226.3 (failure to provide accurate, itemized wage statements); (3) Labor Code §§ 201-203 (failure to pay wages upon termination); and (4) Labor Code § 204b (failure to pay wages in a timely manner).

III. FACTUAL ALLEGATIONS

8. INFINITY STAFFING provides staffing services throughout California.

9. At all relevant times, Plaintiff was employed by INFINITY STAFFING as an hourly, non-exempt employee in the "Professional, Technical, Clerical, Mechanical, and Similar Occupations" as defined by IWC Wage Order 4-2001, § 2(O).

10. Defendants had a policy and practice of failing to pay Plaintiff and other aggrieved employees' overtime at the correct rate in violation of Labor Code §§ 510, 1194, 1198, and 1199 and IWC Wage Order 4-2001. Defendants paid Plaintiff and other aggrieved employees a nondiscretionary bonus equaling \$1.00 per hour worked that was not included in their regular rate when calculating the overtime rate. As a result, Plaintiff and other aggrieved employees were not paid overtime at the proper rate.

11. Defendants had a policy and practice of failing to provide Plaintiff and other aggrieved employees accurate, itemized wage statements in violation of Labor Code §§ 226(a) and 226.3. Due to Defendants' failure to properly calculate overtime, the wage statements also did not include the correct hours worked at the correct rate in violation of Labor Code § 226(a)(9). Further, the wage statements did not include the correct legal name and address of the employer in violation of Labor Code § 226(a)(8) as the wage statements list the employer as "Infinity Staffing" rather than the correct legal name of "Infinity Staffing Services, Inc." Through these violations, Defendants have violated Labor Code §§ 226(a) and 226.3

12. Defendants had a policy and practice of violating California Labor Code §§ 201-203 by failing to pay Plaintiff and other aggrieved employees all wages due and owing at the time of discharge or voluntary quit. Due to Defendants failure to pay overtime at the proper rate as described above, Plaintiff and other aggrieved employees who are no longer employed by INFINITY STAFFING still have not received all of their overtime wages due and owing.

13. Defendants had a policy and practice of failing to pay Plaintiff and other aggrieved employees in a timely manner as required by Labor Code § 204b. Due to Defendants failure to pay overtime at the proper rate as described above, Plaintiff and other aggrieved employees did not receive all of their overtime wages due and owing within the time frame required by Labor Code § 204b.

IV. REPRESENTATIVE ACTION

14. Plaintiff seeks to represent all aggrieved employees within the meaning of Labor Code §§ 2698, *et seq.* who are or were employed in the State of California by Defendants as non-exempt employees and were not paid overtime at the proper rate in violation of Code §§ 510, 1194, 1198, and 1199 and IWC Wage Order 4-2001.

15. Plaintiff seeks to represent all aggrieved employees with the meaning of Labor Code §§ 2698, *et seq.*, who are or were employed by Defendants as non-exempt employees who are or were employed in the State of California who did not receive complete and accurate itemized wage statements in violation of Labor Code § 226(a).

16. Plaintiff seeks to represent all aggrieved employees with the meaning of Labor Code §§ 2698, *et seq.*, who are or were employed by Defendants as non-exempt employees who are or were employed in the State of California who were not paid all wages due at the time of discharge or voluntary quit in violation of Labor Code §§ 201-203.

17. Plaintiff seeks to represent all aggrieved employees with the meaning of Labor Code §§ 2698, *et seq.*, who are or were employed by Defendants as non-exempt employees who are or were employed in the State of California who were not paid all wages in a timely manner as required by Labor Code § 204b.

18. There is a well-defined community of interest in the question of law and fact

1 affecting the aggrieved employees whom Plaintiff seeks to represent. The aggrieved employees’
2 claims against Defendants involve questions of common or general interest, including, but not
3 limited to, the following: (1) whether Defendants had a policy and practice of failing to pay
4 aggrieved employees overtime at the proper rate; (2) whether Defendants had a policy and
5 practice of violating Labor Code § 226 by failing to provide required information on wage
6 statements, such as the correct hours worked at the correct rate and the correct legal name and
7 address of the entity that is the employer, and whether those statements were accurate; (3)
8 whether Defendants had a policy and practice of failing to pay departing aggrieved employees all
9 wages due at the time of discharge or voluntary quit in violation of Labor Code §§ 201-203; (4)
10 and whether Defendants had a policy and practice of failing to pay aggrieved employees in a
11 timely manner as required by Labor Code § 204b.

12 19. Plaintiff’s claims are typical of the claims of the members of the aggrieved
13 employees whom Plaintiff seeks to represent and his interests are consistent with, and not
14 antagonistic to, those of the other aggrieved employees. Plaintiff will fairly and adequately
15 represent the interests of the aggrieved employees because Plaintiff is also an aggrieved employee
16 and his claims are typical of those of the aggrieved employees. Plaintiff has retained attorneys
17 who are experienced in the prosecution of class and representative actions, and Plaintiff intends to
18 prosecute this action vigorously.

19 20. Common questions of law and fact exist as to all aggrieved employees that
20 predominate over any other questions affecting only individual aggrieved employees.

21 21. Plaintiff requests permission to amend the Complaint to include additional
22 representatives if Plaintiff is deemed not to be an adequate representative of the aggrieved
23 employees.

24 **V. FIRST CAUSE OF ACTION**

25 **(FAILURE TO PAY OVERTIME AT THE PROPER RATE - PAGA)**

26 22. Plaintiff repeats and realleges each and every paragraph above as though fully set
27 forth herein.

28 23. Labor Code § 2699(f) permits “aggrieved employees” to recover certain penalties

on their own behalf and on behalf of other current and former employees.

24. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

25. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 510, 1194, 1198, and 1199 and IWC Wage Order 4-2001.

26. By the actions alleged herein, Defendants failed to pay Plaintiff and other aggrieved employees overtime at the proper rate on all occasions when it was required by law in violation of Labor Code §§ 510, 1194, 1198, and 1199 and IWC Wage Order 4-2001.

27. Therefore, Plaintiff and all current and former aggrieved employees demand the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 510, 1194, 1198, and 1199 and IWC Wage Order 4-2001.

28. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code §§ 1194 and 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

VI. SECOND CAUSE OF ACTION

(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS – LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

29. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

30. Labor Code § 2699(f) permits “aggrieved employees,” acting on their own behalf and on behalf of the State of California and other current and former employees, to recover certain penalties.

31. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

32. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil

1 action against Defendants for violations of Labor Code § 226(a).

2 33. By their actions as alleged herein, Defendants have failed to comply with Labor
3 Code § 226(a) as it relates to Plaintiff and the other aggrieved employees. As alleged above,
4 Defendants employed and employ a policy and practice of violating Labor Code § 226(a) by
5 failing to provide complete and accurate itemized wage statements to Plaintiff and other
6 aggrieved employees. Due to Defendants' failure to properly calculate overtime, the wage
7 statements also did not include the correct hours worked at the correct rate in violation of Labor
8 Code § 226(a)(9). Further, the wage statements did not include the correct legal name and
9 address of the employer in violation of Labor Code § 226(a)(8) as the wage statements list the
10 employer as "Infinity Staffing" rather than the correct legal name of "Infinity Staffing Services,
11 Inc." Through these violations, Defendants have violated Labor Code §§ 226(a) and 226.3

12 34. Therefore, Plaintiff, for himself and all current and former aggrieved employees on
13 behalf of the State of California, demands the Labor Code § 226.3 penalties provided for
14 violations of Labor Code § 226(a). (If Labor Code § 226.3 is found not to apply to Defendants'
15 violations of Labor Code § 226(a), Plaintiff alternatively will seek Labor Code § 2699(f)
16 penalties.)

17 35. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code §
18 2699(g)(1).

19 Wherefore, Plaintiff prays for relief as set forth below.

20 **VI. THIRD CAUSE OF ACTION**

21 **(LABOR CODE §§ 201-203 –**

22 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

23 36. Plaintiff repeats and realleges each and every paragraph above as though fully set
24 forth herein.

25 37. Labor Code § 2699(f) permits "aggrieved employees," acting on their own behalf
26 and on behalf of the State of California and other current and former employees, to recover
27 certain penalties.

28 38. Plaintiff is an "aggrieved employee" as that term is defined in the Labor Code

Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

39. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 201-203.

40. By their actions as alleged herein, Defendants have failed to comply with Labor Code §§ 201-203 as they relate to Plaintiff and the other aggrieved employees.

41. Therefore, Plaintiff, for himself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 201-203.

42. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

VII. FOURTH CAUSE OF ACTION

(LABOR CODE § 204b –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

43. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

44. Labor Code § 2699(f) permits "aggrieved employees," acting on their own behalf and on behalf of the State of California and other current and former employees, to recover certain penalties.

45. Plaintiff is an "aggrieved employee" as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

46. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 204b.

47. By their actions as alleged herein, Defendants have failed to comply with Labor Code § 204b as it relates to Plaintiff and the other aggrieved employees.

48. Therefore, Plaintiff, for himself and all current and former aggrieved employees,

demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code § 204b.

49. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

PRAYER FOR RELIEF

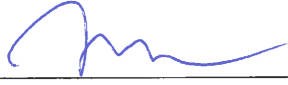
Plaintiff prays for relief as follows:

1. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current and former aggrieved employee for each violation of Labor Code §§ 510, 1194, 1198, and 1199 and IWC Wage Order 4-2001 (failure to pay overtime at the proper rate) during the applicable limitations period preceding the original filing of the Complaint and up to and including the present and until the date of compliance with the law;
2. For civil penalties as specified by Labor Code § 226.3 for Plaintiff and each current or former aggrieved employee and on behalf of the State of California for each violation of Labor Code § 226(a) (failure to provide itemized wage statements) during the applicable limitations period preceding the original filing of the Complaint. (Should Labor Code § 226.3 be found not to apply to Defendants' violations of Labor Code § 226(a), Plaintiff alternatively seek the civil penalties specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee and on behalf of the State of California for each violation of Labor Code § 226(a) (failure to provide itemized wage statements) during the applicable limitations period preceding the original filing of the Complaint.)
3. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code §§ 201-203 (failure to pay departing employees all wages due and owing) during the applicable limitations period preceding the original filing of the Complaint and up to and including the present and until the date of compliance with the law;

4. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each aggrieved employee for each violation of Labor Code § 204b (failure to pay wages in a timely manner) during the applicable limitations period preceding the original filing of the Complaint and up to and including the present and until the date of compliance with the law;
5. For reasonable attorneys' fees and costs as allowed by Labor Code §2699(g)(1) and Code of Civil Procedure § 1021.5;
6. For all interest as required by Labor Code § 218.6 and other applicable law; and
7. For such other and further relief as the Court may deem proper.

Dated: June 10, 2021

KELLER GROVER LLP

By:  

ERIC A. GROVER
ROBERT SPENCER

Counsel for Plaintiff
ALFRED VALENZUELA