

SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT: FOLSOM LAKE FORD, INC., a California
(AVISO AL DEMANDADO):** corporation, and DOES 1 through 10,
inclusive

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

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

FILED

Superior Court Of California,
Sacramento

07/27/2021

mchapman3

By _____, Deputy

Case Number:

34-2021-00304567

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 Sacramento
720 9th Street
Sacramento, California 95814

CASE NUMBER:
(Número del Caso):

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

818-703-8985

DATE:

(Fecha)

JUL 27 2021

Clerk, by

(Secretario)

M. CHAPMAN

, 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, Sheldon Walker	FOR COURT USE ONLY FILED Superior Court Of California, Sacramento 07/21/2021 mchepman3 By _____, Deputy Case Number: 21-2021-00504667
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO STREET ADDRESS: 720 9th Street MAILING ADDRESS: 720 9th Street CITY AND ZIP CODE: Sacramento, 95814 BRANCH NAME: Gordon D. Schaber Sacramento County Courthouse	
CASE NAME: Walker v. Folsom Lake Ford Inc., 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: 21-2021-00504667 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: 7/20/21

Alex P. Katofsky, Esq.

(TYPE OR PRINT NAME)

(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

 SUPERIOR COURT OF CALIFORNIA County of Sacramento 720 Ninth Street, Room 102 Sacramento, CA 95814-1311	<i>For Court Use Only</i>
PETITIONER/PLAINTIFF: Sheldon Walker RESPONDENT/DEFENDANT: Folsom Lake Ford Inc	
ORDER RE: DELAY IN SCHEDULING INITIAL CASE MANAGEMENT CONFERENCE	CASE NUMBER: 34-2021-00304667

The Court finds good cause to delay the scheduling of the initial Case Management Conference for this case given the COVID-19 pandemic and its impact on court-wide operations. Among the affected operations is the Court's Case Management Program (CMP). The Court's CMP calendars have been and remain suspended until further notice. After the CMP Departments resume operations, the Court will schedule the initial Case Management Conference in this case and issue a Notice of Case Management Conference and Order to Appear.

The deadline for filing and service of the Case Management Conference Statements will be based upon the date for the initial Case Management Conference once it has been scheduled.

Parties shall continue to accomplish service of all parties named in the action.

Parties shall continue to ensure that all defendants and cross-defendants have answered, been dismissed, or had their defaults entered.

Plaintiff shall serve a copy of this order on any party to the complaint. The cross-complainant shall have the same obligation with respect to the cross-complaint

RICHARD K. SUEYOSHI

Dated: 06/15/2021

Richard K. Sueyoshi, Judge of the Superior Court

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FILED
Superior Court Of California,
Sacramento
07/21/2021
mchapman3
By _____, Deputy
Case Number:
34-2021-00304667

Attorneys for Plaintiff Sheldon Walker, on behalf of himself and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*

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

SHELDON WALKER, on behalf of himself
and all "aggrieved employees" pursuant to
Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

FOLSOM LAKE FORD, INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO:

34-2021-00304667

**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, 1194.2, 2750, AND 2751 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
226.3 AND 558**

BY FAX

Plaintiff SHELDON WALKER ("Plaintiff"), on behalf of himself and others as an "aggrieved
employee" under the Labor Code Private Attorneys General Act of 2004, complains of FOLSOM
LAKE FORD, INC., a California corporation, and/or any subsidiaries or affiliated companies
(hereinafter referred to as "Defendant"), as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
Plaintiff and all of Defendant's non-exempt California employees ("Aggrieved Employees").

1 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
2 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
3 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendant has had
4 consistent policies of:

5 a. Failing to pay Plaintiff and other Aggrieved Employees all wages due during
6 the course of their employment, including, but not limited to, all minimum wages due. Defendant
7 paid Plaintiff and Aggrieved Employees piece-rate, commission and/or bonus wages. However, some
8 tasks had no compensable piece-rate or commission unit associated with them, such that they went
9 uncompensated (see discussions below). This includes rest periods, which must be separately paid;
10 however, Defendant failed to provide compensated rest periods and denied rest periods altogether.
11 Plaintiff and Aggrieved Employees are not compensated for all hours worked (and thus, all minimum
12 wages due) when they perform tasks for which no piece-rate or commission is associated, including
13 rest periods. This violates Labor Code §§ 510, 558, 1194 and 1194.2;

14 b. Failing to pay Plaintiff and other Aggrieved Employees all wages due, in
15 violation of Labor Code §§ 510, 558, 1194 and 1194.2 and IWC Wage Order 4-2001. Defendant
16 required Plaintiff and other Aggrieved Employees to perform work-related activities off-the-clock
17 and attend training sessions, but were not compensated for this time. An employer is obligated to pay
18 the wages of an hourly employee for all time that the employee is under the control of the employer,
19 and this includes all the time the employee is suffered or permitted to work, whether or not required
20 to do so. When Plaintiff and other Aggrieved Employees performed work-related activities off-the-
21 clock and attended required training sessions, they were under the control of Defendant and required
22 to be compensated for all hours worked. Defendant, however, failed to do so, in violation of Labor
23 Code §§ 510, 558, 1194 and 1194.2 and IWC Wage Order 4-2001;

24 c. Failing to provide Plaintiff and other Aggrieved Employees with written
25 commission compensation agreements, in violation of Labor Code § 2751(a). “Whenever an
26 employer enters into a contract for employment with an employee for services to be rendered within
27 the state and the contemplated method of payment of the employee involves commissions, the
28 contract shall be in writing” The agreement must specify the way the commissions will be

1 computed and paid. *Labor Code* § 2751(a). Plaintiff and other Aggrieved Employees were not
2 provided with written commission agreements as required by, and in violation of, *Labor Code* §§
3 2750 and 2751;

4 d. Failing to pay Plaintiff and all other Aggrieved Employees premium wages for
5 missed and denied meal periods, in violation of *Labor Code* §§ 226.7, 512 and 558 and IWC Wage
6 Order 4-2001. Plaintiff and other Aggrieved Employees were routinely denied, and not authorized to
7 take, an uninterrupted, 30-minute meal period for every shift worked over five hours in duration, and
8 a second 30-minute meal period for every shift worked over ten hours in duration, but were not paid
9 premium wages of one hour's pay for each missed meal period. When meal periods were provided,
10 Plaintiff and Aggrieved Employees were required to carry, and be alert to, their personal cellular
11 phone and respond to calls during their meal period, resulting in an on-duty meal period and additional
12 unpaid wages for time worked during their meal period. When meal periods were provided, they were
13 typically late, short, or interrupted in the middle. Defendant also failed to maintain meal period
14 records. This violates *Labor Code* §§ 226.7, 510, 512, 558, 1174, 1174.5, and 1194 and IWC Wage
15 Order 4-2001;

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

f. Failing to pay Plaintiff and other Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated herein, Plaintiff and other Aggrieved Employees were not paid all wages due, during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and certain Aggrieved Employees no longer employed by Defendant.

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

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

II.

PARTIES

A. Plaintiff

5. Plaintiff SHELDON WALKER was employed by Defendant from July 2020 through February 2021 as a non-exempt employee in Sacramento County, California.

B. Defendant

6. Defendant FOLSOM LAKE FORD, INC., is a California corporation. Defendant employed Plaintiff and Aggrieved Employees throughout the State of California, including Sacramento County, California.

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

8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, 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 DEFENDANT**
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 1194.2, , AND**
12 **PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF**
13 **LABOR CODE §§ 226.3, 558, 2750, AND 2751**

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

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

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

20 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
21 each subsequent violation of Labor Code §§201, 202, 226(a), 226.7, 510, 512,
22 1174, 1174.5, 1194, and 1194.2, ; and

23 b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code
24 §§ 226.3, 558, 2750, and 2751.

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

27 14. On May 21, 2021, Plaintiff sent a letter, by online submission to the LWDA and by
28 certified mail, return receipt requested, to Defendant setting forth the facts and theories of the

1 violations alleged against Defendant, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor
2 Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)
3 calendar days of May 21, 2021. Plaintiff may therefore commence this action to seek civil penalties
4 pursuant to Labor Code § 2698 *et seq.*

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

7 V.

8 **RELIEF REQUESTED**

9 WHEREFORE, Plaintiff prays for the following relief:

10 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
11 Aggrieved Employees;

12 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
13 and other applicable law;

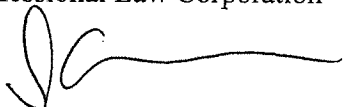
14 3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable
15 law; and

16 4. Such other and further relief as this Court may deem just and proper.

17 Dated: July 20, 2021

Respectfully submitted,

18 GAINES & GAINES
19 A Professional Law Corporation

20 By: 
21 DANIEL F. GAINES
22 SEPIDEH ARDESTANI
23 Attorneys for Plaintiff
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