

1 TIMOTHY B. DEL CASTILLO (SBN: 277296)

2 tdc@castleemploymentlaw.com

3 KENT L. BRADBURY (SBN: 279402)

4 kb@castleemploymentlaw.com

5 **CASTLE LAW: CALIFORNIA EMPLOYMENT COUNSEL, PC**

6 3200 Douglas Blvd., Suite 300

7 Roseville, CA 95661

8 Telephone: (916) 245-0122

9 Attorneys for Plaintiff SOFIA RODRIGUEZ

Electronically Filed
8/17/2021 11:05 AM
Superior Court of California

County of Stanislaus

Clerk of the Court

By: Donna Benz, Deputy

\$435 PAID

10 **SUPERIOR COURT OF CALIFORNIA**
11 **FOR THE COUNTY OF STANISLAUS**

12 _____)
13 SOFIA RODRIGUEZ, as an aggrieved)
14 employee pursuant to the Private)
15 Attorneys General Act (PAGA),)

16 Plaintiff,)
17)
18)

19 vs.)
20)
21)

22 SENSIENT NATURAL INGREDIENTS,)
23 LLC; ONE SOURCE STAFFING)
24 SOLUTIONS, INC.; and DOES 1 to 20,)
25 inclusive,)
26)
27)

28 Defendants.)
_____)

Case No. CV-21-004381

COMPLAINT FOR DAMAGES:

**1. Civil Penalties Pursuant to Private
Attorney General Act, Labor Code §
2698 et seq.**

This case has been assigned to Judge Freeland, John D
Dept. 23
Department _____, for all purposes including Trial.

1 Plaintiff SOFIA RODRIGUEZ (“Plaintiff”) hereby files this Complaint against
2 Defendants SENSIENT NATURAL INGREDIENTS, LLC; ONE SOURCE STAFFING
3 SOLUTIONS, INC; and DOES 1 to 20, inclusive, (hereinafter collectively referred to as
4 “Defendants”). Plaintiff alleges the following:

5 **PARTIES AND JURISDICTION**

6 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
7 2004 (“PAGA”), California Labor Code section 2698, *et seq.* to recover civil penalties and any
8 other available relief on behalf of Plaintiff, the State of California, and other current and former
9 employees who worked for Defendants in California and who suffered at least one violation of the
10 Labor Code as set forth in this complaint, at any time between June 10, 2020, and judgement.

11 2. Plaintiff SOFIA RODRIGUEZ is an individual over the age of eighteen (18) and is now
12 and/or at all times mentioned in this Complaint was a resident of the State of California.

13 3. Plaintiff was a non-exempt employee of Defendants from approximately April 2020
14 through approximately October 2020.

15 4. Plaintiff is informed and believes, and thereon alleges, that Defendant SENSIENT
16 NATURAL INGREDIENTS, LLC is a Delaware Limited Liability Company doing business in
17 California.

18 5. Plaintiff is informed and believes, and thereon alleges, that Defendant ONE SOURCE
19 STAFFING SOLUTIONS, INC is a California Corporation doing business in California.

20 6. Plaintiff is further informed and believes, and thereon alleges, that each of the
21 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer
22 or joint venturer of the remaining defendants and was acting within the course and scope of that
23 relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the
24 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
25 remaining defendants. The true names and capacities of the defendants named herein Does 1
26 through 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to
27 Plaintiff, who therefore sues such defendants by fictitious names pursuant to California Code of
28

1 Civil Procedure section 474. Plaintiff will amend this complaint to show such true names and
2 capacities of Does 1 through 20, inclusive, when they have been determined.

3 7. The Stanislaus County Superior Court has jurisdiction in this matter under the
4 California Constitution, Article VI, section 10. The statute under which this action is brought does
5 not specify any other basis for jurisdiction.

6 8. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of
7 the wrongful acts and violations of law asserted herein occurred within Stanislaus County.

8 9. On June 10, 2021, Plaintiff filed her Labor Code § 2699.3 Private Attorney General Act
9 (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”). The
10 LWDA did not respond to Plaintiff’s PAGA notice within 65 days, thus deputizing Plaintiff to
11 represent herself, other aggrieved employees, and the California Labor Commissioner for the
12 purpose of collecting civil penalties for violations of the California Labor Code committed by
13 Defendants.
14

15 **FACTS COMMON TO ALL CAUSES OF ACTION**

16 10. Plaintiff worked for Defendants from approximately April 2020 through approximately
17 October 2020. During her employment, Plaintiff, and other aggrieved employees, have been made
18 to suffer numerous violations of the California Labor Code.

19 11. Defendants did not allow Plaintiff and similarly situated employees to take their
20 statutorily required meal and rest periods. Defendants failed to provide Plaintiff and other similarly
21 situated employees a 30-minute, duty-free meal period before the end of the fifth hour of work as
22 required under the law.

23 12. Plaintiff and similarly situated employees regularly missed their meal and rest periods
24 and/ or they were provided late. In addition, Plaintiff and similarly situated employees often were
25 not provided a full 30-minute meal period because they were required to clean their clothing and
26 masks before using beginning their meal period.

27 13. Defendants also failed to provide rest periods to Plaintiff and similarly situated
28 employees for every 4 hours worked or major fraction thereof. Often rest periods were simply not

1 provided. When Plaintiff and other employees complained about these violations, Defendants'
2 supervisors responded by saying that they were short on employees.

3 14. Defendants' management staff were aware these violations were occurring and did not
4 ensure meal and/ or rest periods were provided to Plaintiff and similarly situated employees in
5 compliance with California law.

6 15. Plaintiff and similarly situated employees were also suffered and permitted to work off
7 the clock without compensation. For example, on several occasions, Plaintiff and similarly situated
8 employees were required to stay at work after the end of their shift to complete various tasks, but
9 they were not compensated for this time. When Plaintiff complained about this, Defendants'
10 supervisor stated, "Why are you crying over \$20.00?"

11 16. On other occasions, electrical power to the work facility was shut down, and Plaintiff and
12 other similarly situated employees took several minutes to exit the work area to the cafeteria due to
13 no there being no light in the work area. Plaintiff and similarly situated employees then were told to
14 wait in the cafeteria for a long period of time before being told to go home for the day. However,
15 Plaintiff and similarly situated employees were only paid for a portion of their hours worked.

16 17. In early 2020, Defendants implemented various COVID-9 prevention measures that
17 required additional time at the beginning of the shifts for Plaintiff and similarly situated employees.
18 This included a temperature check and a health survey. Plaintiff and similarly situated employees
19 had to complete the temperature check and the health survey, and then retrieve gloves, masks, and
20 other equipment prior to clocking in for the day.

21 18. Plaintiff and similarly situated employees were required to perform these functions at the
22 beginning of their shifts without pay. They were also required to complete similar functions during
23 their meal period, again while they were off the clock.

24 19. On other occasions, Plaintiff's and similarly situated employees' paychecks simply did
25 not include pay for all hours worked in the pay period. When Plaintiff complained about these
26 issues to her supervisors, she was told that she ought to be happy just to have a job.
27
28

1 20. Plaintiff also complained to Cal-OSHA regarding safety violations she saw in the
2 workplace. Shortly after Cal-OSHA came to the workplace to conduct an investigation, and
3 shortly after Plaintiff complained to upper management regarding the wage and hour violations
4 listed above, Plaintiff was informed she was being taken off the schedule, and she has not returned
5 to work.

6 21. As a result of the practices listed above, Plaintiff and similarly situated employees
7 regularly worked over eight (8) hours a day and/or forty (40) hours a week for which all overtime
8 and double time was not paid. Defendants also failed to pay minimum wages for all hours worked
9 by Plaintiff and similarly situated employees.

10 22. Defendants also did not provide Plaintiff and similarly aggrieved employees all wages
11 owed upon their termination or within seventy-two (72) hours of their separation from
12 employment.

13 23. As a result of the above-listed violations, Defendants did not provide Plaintiff and
14 similarly situated employees legally compliant wage statements noting, among other things, total
15 hours worked, gross wages earned, the applicable hourly rates in effect during the pay period and
16 the corresponding number of hours worked at each hourly rate.

17 24. Plaintiff is informed and believes that Defendants committed numerous other violations
18 of the California Labor Code, including but not limited to those identified in this letter. Pursuant
19 to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513
20 (2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code,
21 whether she experienced them personally or not.

22 25. Upon information and belief, all transactions regarding hiring, terminations,
23 promotions, pay increases, pay rates, wages paid, etc. relating to Defendants' California employees
24 were submitted to and processed by Defendants' HR department in their corporate headquarters.
25 Additionally, on information and belief, Defendants' corporate records, in particular HR and pay
26 records pertaining to Defendants' California employees, are also maintained at Defendants'
27 corporate headquarters.
28

1 26. Upon information and belief, Defendants maintain a central Payroll department at each
2 of their corporate headquarters which processes payroll for all Defendants' employees, including
3 Plaintiff and similarly situated, aggrieved employees.

4 27. At all times herein set forth, PAGA provides that any provision of law under the Labor
5 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected
6 by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may,
7 as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
8 themselves and other current or former employees pursuant to procedures outlined in California
9 Labor Code section 2699.3.

10 28. PAGA defines an aggrieved employee in Labor Code section 2699(c) as "any person
11 who was employed by the alleged violator and against whom one or more of the alleged violations
12 was committed."

13 29. Plaintiff and other current and former employees of Defendants are aggrieved
14 employees as defined by the Labor Code in that they are all Defendants' current or former
15 employees and one or more of the alleged violations was committed against them.

16
17 **FIRST CAUSE OF ACTION**
18 **(Civil Penalties Pursuant to PAGA § 2698 ET SEQ.**
19 **(Against All Defendants)**

20 30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though
21 fully set forth herein.

22 31. Plaintiff brings this cause of action as a proxy for the State of California and in this
23 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of the
24 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
25 violations identified above.

26 32. On or about June 20, 2021, Plaintiff, through counsel, sent written notice to the LWDA
27 regarding Defendant's violations of the California Labor Code, pursuant to Labor Code section
28 2698, *et seq.*, PAGA. As of the date of the filing of this Complaint, the LWDA has not informed

1 Plaintiff whether the LWDA intends to investigate Plaintiff's PAGA claims. As such, Plaintiff has
2 exhausted her administrative remedies under PAGA and may proceed in this Court.

3 33. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California
4 and all aggrieved employees for all violations of the Labor Code from June 10, 2020, through trial
5 on this matter.

6 34. Defendants' conduct, as alleged herein, violated various sections of the California labor
7 Code, including but not limited to, the following:

8 35. Labor Code sections 201–203 require that all wages, including minimum wages and
9 meal and rest period premiums, be paid to employees upon separation and/or termination of
10 employment. Here, for the reasons stated above, Defendants' employees did not receive all final
11 wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as
12 required by Labor Code sections 201–203. This is in violation of the Labor Code.

13 36. Labor Code section 1174(d) requires employers to keep "payroll records showing the
14 hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in
15 accordance with rules established for this purpose by the commission, but in any case, shall be
16 kept on file for not less than three years." Defendants did not keep accurate information regarding
17 all hours worked by Plaintiff and similarly situated employees, largely by failing to accurately
18 record all time worked on their time records. This is in violation of the Labor Code.

19 37. Labor Code section 226 requires employers to furnish to employees with "an accurate
20 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
21 employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the
22 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
23 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
24 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
25 and only the last four digits of his or her social security number or an employee identification
26 number other than a social security number, (8) the name and address of the legal entity that is the
27 employer . . . and (9) all applicable hourly rates in effect during the pay period and the
28

1 corresponding number of hours worked at each hourly rate by the employee . . .” For the reasons
2 stated above, Defendants failed to comply with these requirements with respect to Plaintiff and
3 similarly situated employees in violation of the Labor Code.

4 38. Labor Code sections 510 and 1194 require employers to pay employees overtime for
5 any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in
6 any one workweek. Employers must also pay overtime for the first eight (8) hours worked on the
7 seventh day of work in any one workweek. Finally, employers must pay double time for all hours
8 worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight
9 (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and
10 similarly situated employees worked over eight (8) hours per day and forty (40) hours per week
11 and were not paid overtime wages. This is in violation of the Labor Code.

12 39. During the period Plaintiff and similarly situated employees were employed by
13 Defendants they were entitled to be paid at least the State’s minimum wage rate for each hour that
14 they worked. *See, e.g.*, IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001,
15 section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay
16 Plaintiff and similarly situated employees at least minimum wage for all hours worked. Thus,
17 Plaintiff and similarly situated employees were not paid at least the applicable state minimum
18 wage for all hours worked in violation of the Labor Code. This is in violation of the Labor Code.

19 40. Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require
20 employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For
21 the reasons stated above, Plaintiff and similarly situated employees were not authorized and
22 permitted to take legally compliant meal periods pursuant to California law. Defendants also
23 failed to pay meal period premiums for their failure to provide meal periods. This is in violation of
24 the Labor Code.

25 41. On the occasions in which Defendants did pay missed meal period premiums to
26 Plaintiff and/ or similarly aggrieved employees, Defendants failed to pay the missed meal period
27 premium at the employees’ regular rate of pay by failing to include in the regular rate calculation
28

1 all nondiscretionary forms of remunerations including, but not limited to bonuses and shift
2 differentials.

3 42. Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require
4 employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or
5 major fraction thereof worked. For the reasons stated above, Plaintiff and similarly situated
6 employees were not authorized and permitted to take legally compliant rest periods pursuant to
7 California law in violation of the Labor Code. Defendants also failed to pay rest period premiums
8 for their failure to provide rest periods. This is in violation of the Labor Code.

9 43. On the occasions in which Defendants did pay missed rest period premiums to Plaintiff
10 and/ or similarly aggrieved employees, Defendants failed to pay the missed meal period premium
11 at the employees' regular rate of pay by failing to include in the regular rate calculation all
12 nondiscretionary forms of remunerations including, but not limited to bonuses and shift
13 differentials.

14 44. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal.
15 Rptr. 3d 502, 513 (2018), Plaintiff seeks civil penalties on behalf of the State of California and all
16 aggrieved employees for all violations of the California Labor Code, whether she experienced
17 them personally or not.

18 **DAMAGES**

19 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 20 1. For civil penalties under the California Labor Code according to proof allowed by law;
- 21 2. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's
22 fees;
- 23 3. For injunctive relief;
- 24 4. For an award of prejudgment and post-judgment interest; and
- 25 5. For an award to Plaintiff of such other and further relief as the Court deems just and
26 proper.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 16, 2021

Castle Law: California Employment Counsel, PC

By:  _____
Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiff SOFIA RODRIGUEZ