

DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
SEPIDEH ARDESTANI, ESQ. SBN 274259
sepideh@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
27200 Agoura Rd., Suite 101
Calabasas, CA 91301
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

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Kern County Superior Court
By Vickie Fogerson, Deputy

Attorneys for Plaintiff Mykael Beltran, 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 KERN**

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

Plaintiffs,

v.

SAANIYA KWATRA, an individual doing
business as SAANIYA KWATRA SOLE
PROP 70415, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: BCV-21-101878

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

Plaintiff MYKAEL BELTRAN (“Plaintiff”), on behalf of herself and others as an “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004, complains of SAANIYA KWATRA, an individual doing business as SAANIYA KWATRA SOLE PROP 70415, and/or any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”), as follows:

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

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

a. Failing to pay Plaintiff and other Aggrieved Employees all minimum wages earned, in violation of Labor Code §§ 510, 558, 1194 and IWC Wage Order No. 1. Failing to pay Plaintiff and other Aggrieved Employees were paid less than the applicable California minimum wage of \$14.00 per hour. Plaintiff was paid \$11.00 per hour. This resulted in Plaintiff and other Aggrieved Employees being paid significantly less than what is required by law, including failing to pay Plaintiff and other Aggrieved Employees overtime wages, in violation of Labor Code §§ 510, 558, 1194 and IWC Wage Order No. 1.

b. Failing to pay Plaintiff and Aggrieved Employees premium wages for missed rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order No. 4-2001, and Aggrieved Employees were routinely unable to take an off-duty 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages for each missed rest period. When they were able to take their rest periods, they were often on-duty, late or cut short. This violates Labor Code §§ 226.7, 558 and IWC Wage Order No. 4-2001.

c. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who work extended shifts, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage Order 4-2000, and Aggrieved Employees were routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, or a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours in duration, and Plaintiff and other Aggrieved Employees were not paid premium wages of one hour's pay for each missed first or second meal period.

1 period. When they did receive a meal period, it was routinely short or provided after the fifth hour of
2 work. This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 4-2001.

3 d. Failing to provide Plaintiff and other Aggrieved Employees with wage
4 statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a).
5 Plaintiff and other Aggrieved Employees were not paid all minimum wages, overtime wages, and
6 meal and rest period premium wages due. As such, the wage statements provided by Defendants failed
7 to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total
8 hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of
9 Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period
10 and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§
11 226(a)(9) and 226.3.

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

18 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
19 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

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

22 II.

23 PARTIES

24 A. Plaintiff

25 5. Plaintiff MYKAEL BELTRAN was employed by one or more of the Defendants from
26 March 2021 through April 2021 as a non-exempt employee.
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B. Defendants

6. Defendant SAANIYA KWATRA is an individual doing business as SAANIYA KWATRA SOLE PROP 70415. Defendant employed Plaintiff and Aggrieved Employees throughout the State of California, including in Kern County.

7. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants 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 Defendants 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, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

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

III.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

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

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

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

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

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

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

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

14. On June 4, 2021, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of June 4, 2021. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

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

IV.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

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

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

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

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

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3 Dated: August 13, 2021

Respectfully submitted,

4 GAINES & GAINES
5 A Professional Law Corporation

6 By: SA
7 DANIEL F. GAINES
8 SEPIDEH ARDESTANI
9 Attorneys for Plaintiff