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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES
11 UNLIMITED JURISDICTION
12

13 KADEN SANCHEZ, on behalf of himself and
14 all others similarly situated, and the general
public,

15 *Plaintiff,*

16 v.

17 TURNER'S OPERATIONS INC., a California
18 corporation; TURNER'S OUTDOORS INC., a
19 California corporation; and DOES 1 through
50, inclusive,

20 *Defendants.*
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Case No. **21STCV38742**

REPRESENTATIVE ACTION

COMPLAINT

1. Civil Penalties (Lab. Code § 2698, *et seq.*)

1 Plaintiff KADEN SANCHEZ ("Plaintiff"), on behalf of himself and all other similarly
2 situated aggrieved employees, the general public, and the State of California complains and alleges
3 as follows:

4 **INTRODUCTION**

5 1. Plaintiff brings this representative action against defendant TURNER'S
6 OPERATIONS INC., a California corporation; TURNER'S OUTDOORS INC., a California
7 corporation; and DOES 1 through 50, inclusive, (collectively referred to as "Defendants") for
8 alleged violations of the Labor Code. As set forth below, Plaintiff alleges that Defendants have

- 9 (1) failed to provide Plaintiff and all other similarly situated individuals with meal
10 periods;
- 11 (2) failed to provide them with rest periods;
- 12 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 13 (4) failed to pay them premium wages for missed meal and/or rest periods at the regular
14 rate of pay;
- 15 (5) failed to pay them at least minimum wage for all hours worked;
- 16 (6) failed to pay them overtime wages at the correct rate;
- 17 (7) failed to pay them double time wages at the correct rate;
- 18 (8) failed to pay them overtime and/or double time wages by failing to include all
19 applicable remuneration in calculating the regular rate of pay;
- 20 (9) failed to reimburse them for all necessary business expenses;
- 21 (10) failed to provide them with accurate written wage statements; and
- 22 (11) failed to pay them all of their final wages following separation of employment.

23 Based on these alleged violations, Plaintiff now brings this representative action to recover
24 civil and statutory penalties, and related relief on behalf of himself and all other similarly situated
25 aggrieved employees, the general public, and the State of California.

26 **JURISDICTION AND VENUE**

27 2. This Court has subject matter jurisdiction to hear this case because the penalties sought
28 by Plaintiff from Defendants exceeds the minimal jurisdictional limits of the Superior Court of the

1 State of California.

2 3. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure
3 §§ 393(a), 395(a) and 395.5 in that liability arose there, because at least some of the transactions that
4 are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains
5 offices, transacts business, and/or has an agent therein.

6 **PARTIES**

7 4. Plaintiff is and was, and at all relevant times mentioned herein, an individual
8 residing in the State of California.

9 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant
10 TURNER'S OPERATIONS INC. is, and at all relevant times mentioned herein, a California
11 corporation doing business in the State of California.

12 6. Plaintiff is informed and believes, and thereupon alleges, that Defendant
13 TURNER'S OUTDOORS INC. is, and at all relevant times mentioned herein, a California
14 corporation doing business in the State of California.

15 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
16 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
17 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
18 when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the
19 fictitiously named defendants are responsible in some manner for the occurrences, acts and
20 omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these
21 defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and
22 capacities of the DOE defendants when ascertained.

23 8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
24 mentioned herein, some or all of the defendants were the representatives, agents, employees,
25 partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some
26 or all of the other defendants, and, in doing the things alleged herein, were acting within the course
27 and scope of such relationship and with the full knowledge, consent, and ratification by such other
28 defendants.

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9. Plaintiff worked for Defendants as an hourly, non-exempt employee from approximately October 11, 2017 through May 19, 2020.

Security Screening and “Off-the-Clock” Work

10. Sanchez and aggrieved employees were required to utilize the general entrance to the venues and required to go through a security check at the time of leaving the premises where they worked. The security check required Sanchez and aggrieved employees to wait for the availability of a manager to go through a security screening. After clocking out, Sanchez and aggrieved employees would have to wait patiently until a manager would come over and utilize a metal detector wand on all employees leaving the premises. During busy store hours or when the manager was occupied with a pressing task, employees would have to wait for substantial amounts of time anywhere from five (5) to ten (10) minutes, during which Sanchez and aggrieved employees were not permitted to leave.

11. Frequently, while Sanchez and aggrieved employees were clocked out and waiting to leave a customer and/or co-worker would approach them with a request and Sanchez and aggrieved employees would have to work off the clock by attending to the their issues.

12. Based on the above, Defendants' security check practices have resulted in substantial amounts of time not recorded as hours worked therefore resulting in substantial amounts of wages not paid to Sanchez and aggrieved employees.

Late, and/or Shortened Meal Periods

13. Plaintiff and the aggrieved employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) chronically understaffing each work shift with not enough workers; (3) imposing so much work on each employee such that it made it unlikely that an employee would be able to take their breaks if they wanted to finish their work on time; and (4) no formal written meal and rest period policy that encouraged employees to take their meal and rest periods.

14. Defendants have a practice and/or policy of requiring Sanchez and the aggrieved

1 employees to take their meal periods after the fifth hour of work when the retail store was busy
2 with customers. Also, Sanchez and the aggrieved employees were required to clock out for meal
3 periods even though they continued to perform work assisting customers with the full knowledge
4 of their supervisors, including but not limited to Pam [surname unknown]. Sanchez and the
5 aggrieved employees were so inundated with work that they were regularly unable to take an
6 uninterrupted meal period during the first five hours of their work shifts. This occurred with greater
7 frequency during busy days and holiday season. Accordingly, Sanchez and the aggrieved
8 employees were not provided with legally mandated uninterrupted meal periods of at least thirty
9 minutes pursuant to California law.

10 15. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
11 regularly not provided with uninterrupted meal periods of at least thirty (30) minutes for each five
12 (5) hours worked due to complying with Defendants' productivity requirements that required
13 Plaintiff and the aggrieved employees to work through their meal periods.

14 **Missed Rest Periods**

15 16. Plaintiff and the aggrieved employees were not provided with rest periods of at least
16 ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
17 Defendants' policy of not scheduling each rest period as part of each work shift; (2) chronically
18 understaffing each work shift with not enough workers; and (3) imposing so much work on each
19 employee such that it made it unlikely that an employee would be able to take their breaks if they
20 wanted to finish their work on time.

21 17. Defendants have a policy and/or practice of interrupting Sanchez and the aggrieved
22 employees and directing them to attend to customers or answer questions during their rest breaks
23 when the store was busy, especially frequently during the holiday seasons.

24 18. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
25 regularly not provided with uninterrupted rest periods of at least ten (10) minutes for each four (4)
26 hours worked due to complying with Defendants' productivity requirements that required Plaintiff
27 and the aggrieved employees to work through their rest periods.

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Regular Rate of Pay

19. The regular rate of pay under California law includes all remuneration for employment paid to, on behalf of, the employee. This requirement includes, but is not limited to, commissions and non-discretionary bonuses.

20. At all relevant times, Defendants violated the above-referenced Labor Code sections by failing to pay Sanchez and the aggrieved employees for all hours worked, including, but not limited to, overtime hours and/or meal and/or rest premiums. While employed by Defendants, Sanchez and the aggrieved employees received hourly wages and other remuneration, including, but not limited to, commissions on gun sales and/or Defendants' "spiff" program and/or non-discretionary bonuses and/or other applicable remuneration that must be included when calculated their regular rates of pay for purposes of overtime, meal premiums, and/or rest premiums.

21. However, Defendants consistently failed to include all applicable forms of remuneration when calculating their regular rates of pay. As a result, any overtime wages, meal premiums, and/or rest premiums paid to Sanchez and the aggrieved employees were not paid at the regular rate of pay.

22. During the applicable limitations period, Defendants violated the rights of Plaintiff and the aggrieved employees under the above-referenced Labor Code sections by failing to pay them overtime wages for all overtime hours worked in violation of Labor Code §§ 510, 1194, and 1198 as a result of not correctly calculating their regular rate of pay to include all applicable remuneration, including, but not limited to, non-discretionary bonuses and/or shift-differential pay.

Wage Statements

23. Plaintiff and the aggrieved employees were not provided with accurate wage statements as mandated by law pursuant to Labor Code § 226.

24. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that all hours worked, including overtime, and/or "off-the-clock" work, were not included.

25. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that all hours worked, including overtime

1 and “off-the-clock” work, were not included.

2 26. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages
3 earned” were not accurately reflected in that all hours worked, including overtime and “off-the-
4 clock” work, were not included.

5 27. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable
6 hourly rates in effect during the pay period and the corresponding number of hours worked at each
7 hourly rate by the employee” were not accurately reflected in that all hours worked, including
8 overtime and “off-the-clock” work, were not included.

9 **FIRST CAUSE OF ACTION**

10 **CIVIL PENALTIES**

11 **(Lab. Code §§ 2698 *et seq.*)**

12 28. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

13 29. During the applicable limitations period, Defendants have violated Labor Code §§
14 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, and 1198.

15 30. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of
16 himself and other current and former employees, to bring a representative civil action to recover
17 civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not,
18 be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

19 31. Plaintiff, a former employee against whom Defendants committed one or more of the
20 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
21 within the meaning of Labor Code § 2699(c).

22 32. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
23 § 2699.3. Notice was timely provided to the California Labor & Workforce Development Agency
24 (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an
25 intent to intervene.

26 33. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
27 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510,
28 512, 1194, 1197, and 1198:

- i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, and 1198, one hundred dollars (\$100) for each employee per pay period for each initial violation and two hundred dollars (\$200) for each employee per pay period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));
- ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);
- iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 210);
- iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);
- v. For violations of Labor Code § 226(a), if this action is deemed to be an initial citation, two hundred and fifty dollars (\$250) for each employee for each violation. Alternatively, if an initial citation or its equivalent occurred before the filing of this action, one thousand dollars (\$1,000) for each employee for

each violation (penalties set by Labor Code § 226.3);

vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each employee for each initial pay period for which the employee was underpaid, and one hundred dollars (\$100) for each employee for each subsequent pay period for which the employee was underpaid (penalties set by Labor Code § 558);

vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each aggrieved employee for each initial violation of Labor Code § 1197 that was intentional and two hundred and fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation of Labor Code § 1197, regardless of whether the initial violation was intentional (penalties set by Labor Code § 1197.1);

viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general
3 public, prays for relief and judgment against Defendants as follows:

- 4 (1) Pre-judgment interest;
5 (2) Statutory penalties;
6 (3) Civil penalties;
7 (4) Costs of suit;
8 (5) Reasonable attorneys' fees; and
9 (6) Such other relief as the Court deems just and proper.

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11 Dated: October 20, 2021

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16 NOLAN DILTS
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