

ENDORSED  
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ALAMEDA COUNTY

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By N. FISHER Deputy Clerk  
Clerk of the Superior Court

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

ELOISA SOTO, as a proxy for the State of  
California and on behalf of all similarly  
situated aggrieved employees,

Plaintiffs,

v.

RICH PRODUCTS CORPORATION, a  
Corporation; and DOES 1 through 50,  
inclusive,

Defendants.

CASE NO. 21 CV003687

**REPRESENTATIVE ACTION COMPLAINT  
FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §  
2698, ET SEQ.**

**DEMAND EXCEEDS \$25,000.00**

**ADDITIONAL COUNSEL FOR PLAINTIFFS**

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1 Plaintiff ELOISA SOTO (“Plaintiff”) hereby submits this Representative Action  
2 Complaint (“Complaint”) against Defendant RICH PRODUCTS CORPORATION, a Corporation  
3 (“RICH PRODUCTS”), and DOES 1-50 (hereinafter collectively referred to as “Defendants”), as  
4 a proxy for the State of California and on behalf of all current and former similarly situated  
5 aggrieved employees of Defendants for penalties for violations of the California Labor Code as  
6 follows:

### 7 **JURISDICTION AND VENUE**

8 1. This representative action is within the Court’s jurisdiction under California Labor  
9 Code §§ 226, 226.7, 512, and the Private Attorneys General Act (the “PAGA”), Labor Code § 2698,  
10 *et seq.*, and the California Industrial Welfare Commission’s (“IWC”) Wage Orders. As alleged  
11 herein, Plaintiff has exhausted the administrative remedies as set forth in the PAGA.

12 2. This Complaint challenges systemic illegal employment practices resulting in  
13 violations of the California Labor Code against employees of Defendants.

14 3. Venue is proper in Alameda County because Defendants maintain business  
15 locations in this County. Moreover, the allegations alleged herein took place, in part in this  
16 County.

### 17 **PARTIES**

18 4. On or about September 14, 1998, Plaintiff began working for Defendants as a light  
19 machine operator. During her employment, Plaintiff was paid various non-discretionary incentive  
20 wages, including, but not limited to, shift differential wages. Plaintiff was also paid meal and/or  
21 rest break premium wages.

22 5. Defendant RICH PRODUCTS is a food company that products in various cities  
23 including in the County of Alameda.

24 6. Plaintiff was and is a victim of the policies, practices, and customs of Defendants  
25 complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by  
26 California Labor Code §§ 226, 226.7, and 512.

27 7. Plaintiff is informed and believes, and based thereon alleges, that at all times herein  
28 mentioned Defendants and DOES 1 through 50 are and were business entities, individuals, and

1 partnerships, licensed to do business and actually doing business in the State of California.

2 8. As such, and based upon all the facts and circumstances incident to Defendants'  
3 business in California, Defendants are subject to California Labor Code §§ 226, 226.7, and 512.

4 9. Plaintiff does not know the true names or capacities, whether individual, partner or  
5 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said  
6 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this  
7 complaint when the true names and capacities are known. Plaintiff is informed and believes, and  
8 based thereon alleges, that each of said fictitious Defendants was responsible in some way for the  
9 matters alleged herein and proximately caused Plaintiff and the aggrieved employees to be subject  
10 to the illegal employment practices complained of herein.

11 10. At all times herein mentioned, each of said Defendants participated in the doing of  
12 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the  
13 Defendants, and each of them, were the agents, servants and employees of each of the other  
14 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting  
15 within the course and scope of said agency and employment.

16 11. Plaintiff is informed and believes, and based thereon alleges, that at all times  
17 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or  
18 joint venturer of, or working in concert with each of the other co- Defendants and was acting  
19 within the course and scope of such agency, employment, joint venture, or concerted activity. To  
20 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the  
21 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting  
22 Defendants.

23 12. At all times herein mentioned, Defendants, and each of them, were members of, and  
24 engaged in, a joint venture, partnership and common enterprise, and acting within the course and  
25 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

26 13. At all times herein mentioned, the acts and omissions of various Defendants, and  
27 each of them, concurred and contributed to the various acts and omissions of each and all of the  
28 other Defendants in proximately causing the violations as herein alleged. At all times herein  
mentioned, Defendants, and each of them, ratified each and every act or omission complained of

1 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the  
2 acts and omissions of each and all of the other Defendants in proximately causing the damages as  
3 herein alleged.

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

6 **(AGAINST THE DEFENDANTS AND DOES 1-50 BY PLAINTIFF AS PROXY FOR THE**  
7 **STATE OF CALIFORNIA)**

8 14. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
9 though fully set forth herein.

10 15. Pursuant to the PAGA, Plaintiff seeks penalties on behalf of the State of California  
11 and all similarly aggrieved current and former California non-exempt employees for the violations  
12 of Labor Code §§ 226, 226.7, and 512, for the time period of September 14, 2020, through the  
13 present. Plaintiff was not provided proper and accurate payroll records identifying all information  
14 required by Labor Code § 226(a). Specifically, Defendants violated Labor Code § 226 by, among  
15 other actions, failing to identify the applicable hours and rate of pay to calculate shift differential  
16 wages. Further, Defendants violated Labor Code §§ 226.7 and 512 by failing to pay meal and rest  
17 break premium wages at the regular rate of pay. Specifically, whenever meal and rest break  
18 premium wages were paid to Plaintiff and similarly aggrieved employees, the meal and/or rest  
19 break premium wages were paid at their base hourly rate of pay, which did not include the shift  
20 differential wages that they received during the same workweek. Thus, the meal and rest break  
21 premium wages were not paid at the regular rate of pay. As such, Defendants violated Labor Code  
22 §§ 226, 226.7 and 512.

23 16. On or about September 14, 2021, Plaintiff submitted written notice to the Labor  
24 Workforce Development Agency (the “LWDA”) and to Defendants via certified mail, return  
25 receipt requested, of the aforementioned violations of Labor Code §§ 226, 226.7 and 512. As of  
26 the date of this filing, the LWDA has not initiated an investigation. Therefore, Plaintiff may  
27 proceed in this Court and in this regard, Plaintiff seeks penalties pursuant to Labor Code §§ 226  
28 and 2699, as well as attorneys’ fees and costs.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment on behalf of the State of California and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. Upon the First Cause of Action, for civil penalties pursuant to Labor Code §§ 226.3 and 2699, and for costs and attorneys' fees;
2. On all causes of action, for attorneys' fees and costs as provided by California Labor Code § 2699, and Code of Civil Procedure § 1021.5; and
3. For such other and further relief as the Court may deem just and proper.

DATED: December 6, 2021

LAW OFFICES OF CHOI & ASSOCIATES, P.C.

By:   
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Attorneys for Plaintiffs