

FILED
Superior Court Of California,
Sacramento
03/10/2022
rsanmiguel
By _____, Deputy
Case Number:
34-2021-00313156

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

TRAVIS BLAIR, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

CLARK WAGAMAN DESIGNS, a California
Corporation; and
DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2021-00313156

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. Failure to Pay Overtime Wages
2. Meal Period Violations
3. Rest Period Violations
4. Wage Statement Violations
5. Waiting Time Penalties
6. Failure to Reimburse Expenses
7. Unfair Competition
8. Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiff TRAVIS BLAIR ("Plaintiff"), on behalf of himself and all other similarly situated
2 employees, hereby files this Complaint against Defendants CLARK WAGAMAN DESIGNS, a
3 California Corporation; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as
4 "Defendants"). On information and belief, Plaintiff allege the following:

5 INTRODUCTION

6 1. This is a class action and Private Attorneys General Act ("PAGA") lawsuit brought by
7 Plaintiff for failure to pay overtime, meal period violations, rest period violations, failure to reimburse
8 expenses, waiting time penalties, wage statement violations, and unfair competition.

9 JURISDICTION AND VENUE

10 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
11 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
12 Labor Code, California Business and Professions Code, and Wage Order No. 16.

13 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that
14 Defendants reside in Sacramento County. In addition, some of the wrongful acts and violations of law
15 asserted herein occurred within Sacramento County, and Defendants' obligation to pay wages arose in
16 Sacramento County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414
17 (1984).

18 4. Plaintiff sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the
19 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of himself
20 and other similarly situated employees. Pursuant to Labor Code section 2699.3, Plaintiff gave written
21 notice via online submission to the Labor and Workforce Development Agency ("LWDA") on
22 approximately December 22, 2021. Plaintiff provided facts and legal bases for his claims within the
23 notice to the LWDA on all violations asserted under the Private Attorneys General Act cause of action.
24 Plaintiff submitted the \$75.00 filing fee. The December 22, 2021 notice was also sent via certified mail
25 to Defendants on the same day. Plaintiff is informed and believes, that to date, the LWDA has not
26 provided any response to Plaintiff's notice correspondence. Accordingly, Plaintiff is informed and
27 believes that he has exhausted all administrative remedies pursuant to the Private Attorneys General Act
28 and may bring this action on behalf of himself and all Aggrieved Employees. *See* Cal. Labor Code §

1 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19
2 (2005). Aggrieved Employees includes all non-exempt, hourly employees who have, or continue to,
3 perform work for Defendants in California as non-exempt employees from December 22, 2020 to the
4 present.

5 **PARTIES**

6 5. TRAVIS BLAIR is an individual over the age of eighteen (18) and is a resident of the
7 State of California.

8 6. On information and belief, Plaintiff alleges, CLARK WAGAMAN DESIGNS, is now
9 and/or at all times mentioned in this Complaint was a California Corporation and the owner and
10 operator of an industry, business and/or facility doing business in the State of California.

11 7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
12 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
13 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
14 names and capacities of these DOE Defendants when they are ascertained. At all times mentioned
15 herein, each Defendant was the agent or employee of each of the other Defendants and was acting within
16 the course and scope of such agency or employment. The Defendants are jointly and severally liable to
17 Plaintiff.

18 8. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
19 were members of and/or engaged in a joint employment, joint venture, partnership and common
20 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
21 joint venture, partnership and common enterprise.

22 9. Defendants, and each of them, now and/or at all times mentioned in this Complaint
23 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

24 10. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
25 wrongs, complaints, injuries and/or damages alleged in this Complaint.

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CLASS ALLEGATIONS

11. Plaintiff brings the First through Seventh Causes of Action on behalf of himself and all others similarly situated as a class action pursuant to California Code of Civil Procedure section 382. The class which Plaintiff seeks to represent is composed of, and defined, as follows:

All non-exempt, hourly employees who have worked, or continue to work, for Defendants in California from December 22, 2017 to the present.

12. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) Numerosity: The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendants have employed as many as fifty (50) individuals falling within the above stated class definition throughout the State of California during the applicable statute of limitations, who were subjected to the policies and practices outlined in this Complaint. As such, joinder of all members of the putative class is not practicable.

(b) Common Questions Predominate: Common questions of law and fact exist as to all members of the putative class and predominate over questions that affect only individual members of the class. These common questions of law and fact include, without limitation, the following:

- (1) Whether Defendants failed to incorporate the value of nondiscretionary remuneration, such as incentive bonuses into putative class members' regular rates of pay for the purpose of calculating overtime wages;
- (2) Whether Defendants failed to incorporate the value of nondiscretionary remuneration, such as incentive bonuses into putative class members' regular rates of pay for the purpose of paying paid sick time;
- (3) Whether Defendants authorized and permitted putative class members to take a duty-free thirty (30) minute meal period for every five (5) hours of work;

- 1 (4) Whether Defendants authorized and permitted putative class members to take
2 duty-free ten (10) minute break for every four (4) hours or major fraction thereof
3 of work;
4 (5) Whether Defendants required putative class members to use their personal
5 cellphones for work;
6 (6) Whether Defendants had any policy or practice to reimburse putative class
7 members for the use of their personal cellphones for work;
8 (7) Whether as a result of Defendants' policies and practices putative class members
9 received all wages, due and owing, at the time of their termination or separation;
10 and
11 (8) Whether Defendants provided putative class members with wage statements that
12 complied with Labor Code section 226.

13 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
14 class. The putative class also sustained damages arising out of Defendants' common
15 course of conduct in violation of the law as complained of herein. Plaintiff and all
16 members of the putative class were non-exempt hourly employees who received
17 nondiscretionary remuneration, such as incentive bonuses, but were not paid the correct
18 overtime wages and paid sick time due to Defendants' failure to incorporate the value of
19 nondiscretionary remuneration into putative class members' regular rates of pay.
20 Moreover, Defendants failed to provide all meal and rest periods to Plaintiff and putative
21 class members due to Defendants pressuring Plaintiff and putative class members to
22 complete jobs quickly and setting deadlines for jobs to be completed that did not allow
23 sufficient time for meal and rest periods to be taken. Defendants also required Plaintiff
24 and putative class members to use their personal cellphones for work and download apps
25 on their personal cellphones for work without reimbursing them. Additionally,
26 Defendants issued Plaintiff and all members of the putative class wage statements that
27 did not comply with Labor Code section 226. As a result, Plaintiff and each member of
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1 the putative class will have suffered the same type of harm and seek the same type of
2 recovery based on the same legal theories.

3 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
4 putative class. For all relevant times, Plaintiff resided in California and worked for
5 Defendants in California. Moreover, Plaintiff is an adequate representative of the
6 putative class as Plaintiff has no interests that are adverse to those of putative class
7 members. Additionally, Plaintiff has retained counsel who has substantial experience in
8 complex civil litigation and wage and hour matters.

9 (e) Superiority: A class action is superior to other available means for the fair and efficient
10 adjudication of the controversy since individual joinder of all members of the putative
11 class is impracticable. Class action treatment will permit a larger number of similarly
12 situated persons to prosecute their common claims in a single forum simultaneously,
13 efficiently, and without the unnecessary duplication of effort and expense that numerous
14 individual actions would engender. Further, as damages suffered by each individual
15 member of the class may be relatively small, the expenses and burden of the individual
16 litigation would make it difficult or impossible for individual members of the class to
17 redress the wrongs done to them, and an important public interest will be served by
18 addressing the matter as a class action. The cost to the court system of adjudication of
19 such individualized litigation would be substantial. Individualized litigation would also
20 present the potential for inconsistent or contradictory judgments.

21 13. Plaintiff is unaware of any difficulties that are likely to be encountered in the
22 management of this action that would preclude its maintenance as a class action.

23 GENERAL ALLEGATIONS

24 14. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 13 as though fully
25 set forth herein.

26 15. Plaintiff worked for Defendants from approximately July 7, 2020 to December 3, 2020
27 and then again from May 17, 2021 to November 5, 2021 as a non-exempt employee. From May to
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1 November 2021 Plaintiff installed patio covers for Defendants' customers. Plaintiff and similarly
2 situated employees regularly worked over eight (8) hours in a day and forty (40) hours in a week.

3 16. Defendants paid Plaintiff and similarly situated employees hourly wages in addition to
4 non-discretionary remuneration, such as incentives bonuses. The incentive bonus amounts were based
5 on a calculation of the total dollar amount of items completed per job breakdown sheet (*i.e.*, par sheet)
6 less an employee's hourly wages. However, Defendants failed to incorporate the value of the
7 nondiscretionary remuneration into Plaintiff's and similarly situated employees' regular rates of pay for
8 the purpose of paying overtime wages and paid sick time. For example, Defendant's pay records reflect
9 that during the 8/16/21-8/29/21 pay period, Plaintiff worked 7.6 hours of overtime, used 8 hours of paid
10 sick time, and earned an incentive bonus in the amount of \$800.36. Defendants paid the 7.6 overtime
11 hours at 1.5x Plaintiff's base hourly rate and the 8 hours of paid sick time at Plaintiff's base hourly rate
12 failing to account for the value of his incentive bonus. Plaintiff is informed and believed that similarly
13 situated employees regularly worked similar schedules earning overtime, using paid sick time and
14 earning incentive bonuses and other non-discretionary remuneration within the same workweek and/or
15 pay period and were not paid all overtime and paid sick time wages they were entitled to.

16 17. Defendants did not authorize and permit Plaintiff and similarly situated employees to take
17 a duty-free meal period for every five (5) hours worked and ten (10) minute duty-free rest periods every
18 four (4) hours or major fraction thereof. Defendants pressured Plaintiff and similarly situated employees
19 to complete as many installation jobs as they could as quickly as possible and set deadlines to complete
20 patio installations that prevented Plaintiff and similarly situated employees from being able to take all
21 meal and rest periods. Defendants also did not keep track of whether Plaintiff and similarly situated
22 employees took meal periods.

23 18. Defendants required Plaintiff and similarly situated employees to download an app,
24 Buddy Punch, on their personal cellphones to record their hours worked. Plaintiff is informed and
25 believes that Defendants also tracked Plaintiff and similarly situated employees through this app using
26 GPS. Defendants also required Plaintiff and similarly situated employees to download an app on their
27 personal cellphone called i360. Plaintiff and similarly situated employees used i360 to submit photos
28 they took of the job using their cellphones and to review line drawings for the job. Plaintiff and

1 similarly situated employees also used their cellphones to speak with the project manager and owner
2 while on jobsites and to report to the company when jobs were complete so that an inspection could be
3 scheduled. Defendants did not have any policy or practice to reimburse Plaintiff and similarly situated
4 employees for the use of their personal cellphones although Defendants required their personal
5 cellphones to be used for work.

6 19. Defendant did not provide Plaintiff and similarly situated employees with all the tools
7 necessary to complete their work. Defendant provided very limited hand tools, did not provide any
8 demolition tools, and would sometimes only provide one ladder or saw horse when more were need to
9 complete the job. As a result, Plaintiff and similarly situated employees were required to purchase tools
10 for work including but not limited to sawzalls, skill saws, saw horses, ladders, and toolboxes. Defendant
11 did not reimburse Plaintiff and similarly situated employees for purchasing these tools and did not pay
12 them hourly rates equivalent to two (2) times the minimum wage.

13 20. Defendants issued Plaintiff and similarly situated employees wage statements that did not
14 accurately itemize the total hours worked, accurate regular and overtime rates of pay, accurate missed
15 meal and rest period premiums owed, and accurate gross and net wages earned. As a result, Plaintiff
16 and similarly situated employees were not able to determine the total wages owed to them from their
17 wage statements alone.

18 21. As of the filing of this Complaint, Defendants have not paid Plaintiff and similarly
19 situated employees overtime wages, paid sick time, and meal and rest period premiums owed to them.

20 **CAUSES OF ACTION**

21 **FIRST CAUSE OF ACTION**
22 **FAILURE TO PAY OVERTIME WAGES**
(As to all Defendants)

23 22. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 21 as though fully
24 set forth herein.

25 23. During the period Plaintiff was employed by Defendants, Defendants were required to
26 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
27 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
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1 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 16, section*
2 *(3)(A); Cal. Lab. Code §§ 510, 1194.*

3 24. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
4 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
5 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
6 worked at their correct regular rate of pay.

7 25. Plaintiff and similarly situated employees were not exempt from overtime protections
8 employees under the California Wage Orders and Labor Code.

9 26. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
10 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
11 the extent pertinent as if set forth here in full.

12 **SECOND CAUSE OF ACTION**
13 **MEAL PERIOD VIOLATIONS**
(As to all Defendants)

14 27. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 26 as though fully
15 set forth herein.

16 28. An employer must provide an employee a meal period in accordance with the
17 applicable Wage Order, and California Labor Code sections 226.7 and 512.

18 29. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 16, section
19 10(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
20 minutes for each work period of more than five (5) hours.

21 30. California Labor Code section 512 and Wage Order No. 16 section 10(B) further
22 provide that employers may not employ employees for a work period for more than ten (10) hours
23 per day without providing the employee with a second meal period of at least thirty (30) minutes.
24 However, if the total hours worked is no more than twelve (12) hours, the second meal period may
25 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one
26 (1) hour of pay at their regular rate of compensation for each meal period not provided.

27 31. Defendants employed Plaintiff and similarly situated employees for periods of more
28 than five (5) hours without providing meal breaks of at least thirty (30) minutes. Defendants also

1 failed to allow Plaintiff and similarly situated employees to take their first meal period before the
2 completion of their fifth hour of work. Plaintiff and similarly situated employees did not waive their
3 rights to all meal periods throughout their employment.

4 32. Defendants further failed to pay Plaintiff and similarly situated employees the
5 applicable meal period premiums for any such missed meal breaks.

6 33. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
7 employees have been damaged as stated in the section below entitled "DAMAGES," which is
8 incorporated here to the extent pertinent as if set forth here in full.

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10 **THIRD CAUSE OF ACTION**
REST PERIOD VIOLATIONS
(As to all Defendants)

11 34. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 33 as though fully
12 set forth herein.

13 35. An employer must provide an employee a rest period in accordance with the
14 applicable Wage Order and California Labor Code section 226.7.

15 36. California Labor Code section 226.7 and Wage Order No. 16, section 11(A) require
16 an employer to provide a rest period of not less than ten (10) minutes for each work period of more
17 than four (4) hours or a major fraction thereof.

18 37. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
19 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
20 they worked more than four (4) hours or a major fraction thereof.

21 38. Defendants further failed to pay Plaintiff and similarly situated employees the
22 applicable rest period premiums for any such missed rest periods.

23 39. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
24 employees have been damaged as stated in the section below entitled "DAMAGES," which is
25 incorporated here to the extent pertinent as if set forth here in full.

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FOURTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

40. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 39 as though fully set forth herein.

41. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

42. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an itemized statement or failed to provide an accurate and complete itemized statement showing the requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not accurately itemize all applicable hourly rates in effect during the pay period, all regular and overtime hours worked and corresponding rates of pay, and gross and net wages earned. Plaintiff and similarly situated employees suffered confusion over whether they received all wages owed and were prevented from effectively challenging information on their wage statements.

43. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

44. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 43 as though fully set forth herein.

45. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. *See* Cal. Lab. Code § 201.

46. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. *See* Cal. Lab. Code § 202.

47. Plaintiff and similarly situated employees did not receive all wages, including overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or within the required time after their separation from employment.

48. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. *See* Cal. Lab. Code § 203.

49. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees' their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff and similarly situated employees earned nondiscretionary remuneration, worked overtime, and used paid sick leave in the same workweeks or pay periods but failed to correctly calculate their regular rates of pay. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

50. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

SIXTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

51. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 50 as though fully set forth herein.

1 52. California Labor Code section 2802(a) states that "An employer shall indemnify his or
2 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
3 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
4 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
5 unlawful."

6 53. Defendants required Plaintiff and similarly situated employees to use their personal
7 cellphones to take photos, download and use apps for work, and contact the owner, project manager, and
8 other employees about their work but failed to reimburse them for such use. Defendant also required
9 Plaintiff and similarly situated employees to purchase their own tools for work but did not reimburse
10 them.

11 54. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
12 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
13 the extent pertinent as if set forth here in full.

14 **SEVENTH CAUSE OF ACTION**
15 **UNFAIR COMPETITION**
16 **(As to CLARK WAGAMAN DESIGNS and DOES 1 to 100)**

17 55. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 54 as though fully
18 set forth herein.

19 56. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
20 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
21 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
22 California Business and Professions ("B&P") Code § 17200.

23 57. Plaintiff and similarly situated employees were not paid all wages owed, including
24 minimum and overtime wages, and meal and rest period premiums, paid sick leave, or reimbursed for
25 business expenses, during their employment or any time thereafter.

26 58. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
27 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
28 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

1 59. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
2 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
3 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
4 sections 17203, 17208, violations of California Labor Code sections 226.7, 246, 510, 512, and 1194 all
5 in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this
6 Action.

7 **EIGHTH CAUSE OF ACTION**
8 **PRIVATE ATTORNEYS GENERAL ACT**
 (As to all Defendants)

9 60. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 60 as though fully
10 set forth herein.

11 61. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
12 following provisions of the Labor Code in their dealings with him and other similarly situated current
13 and former employees:

- 14 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 16, § 3 (Failure to Pay
15 Overtime Wages)
- 16 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage
17 Statements)
- 18 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- 19 • Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of
20 Work in Any Industrial Welfare Commission Order)
- 21 • Violation of Labor Code §§ 226.7, 512; IWC Wage Order 16, §§ 11(A) and 11(B)
22 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 23 • Violation of Labor Code § 226.7; IWC Wage Order 16, § 12(A) (Failure to Provide
24 Rest Periods or Pay Premiums in Lieu Thereof)
- 25 • Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- 26 • Violation of Labor Code § 226.3, 1174, 1198; IWC Wage Order 16, § 6 (Failure to
27 Maintain Accurate Records)
- 28 • Violation of Labor Code § 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

62. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

63. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
 - b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

6. As to the Sixth Cause of Action:

- a. An amount to be proven at trial;
- b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

7. As to the Eighth Cause of Action:

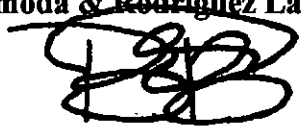
- a. For civil penalties as provided for in the Labor Code for each enumerated violation in an amount to be proven a trial;
- b. For those Labor Code sections, the violation of which there is no civil penalty provided, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;
- c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

8. For such other and further relief as this Court may deem just and proper, including, but not limited to:

- a. Wages as proved at trial;
- b. Injunctive and Declaratory relief;
- c. Attorney's fees and costs as provided for by law; and
- d. Interest.

Dated: March 9, 2022

Shimoda & Rodriguez Law, PC

By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff

1 *Blair v. Clark Wagaman Designs*
2 *Sacramento County Superior Court of California 34-2021-00313156*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Erika F. Collazo, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to the
7 within above-entitled action.

8 On March 9, 2022, I served the following documents on the party below:

- 9 • First Amended Complaint for Damages

10 Laura C. McHugh (SBN: 180930) 11 Christina M. Bucci Hamilton (SBN: 292047) 12 Duggan McHugh Law Corporation 13 641 Fulton Avenue Suite 100 14 Sacramento, CA 95825 15 Phone: (916) 550-5309 16 Facsimile: (916) 404-5900 17 Email: laura@dugganmchugh.com 18 christina@dugganmchugh.com 19 jason@dugganmchugh.com	
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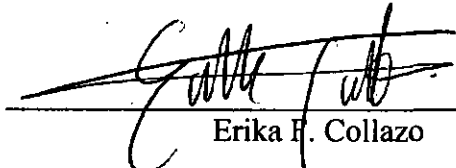
20 [XXX] [By Mail] I am familiar with my employer's practice for the collection and
21 processing of correspondence for mailing with the United States Postal
22 Service and that each day's mail is deposited with the United States Postal
23 Service that same day in the ordinary course of business. On the date set forth
24 above, I served the aforementioned document(s) on the parties in said action
25 by placing a true copy thereof enclosed in a sealed envelope with postage
26 thereon fully prepaid, for collection and mailing on this date, following
27 ordinary business practices, at Elk Grove, California, addressed as set forth
28 above.

21 [] [By Personal Service] By personally delivering a true copy thereof to the
22 office of the addressee above.

23 [] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown
24 above. No error was reported by the e-mail service that I used.

25 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
26 personally delivered via the following overnight courier service: ____.

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is
28 true and correct, and that this declaration was executed on March 9, 2022, at Elk Grove, California.


Erika F. Collazo