

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Fletcher W. Schmidt (SBN 286462)
fschmidt@haineslawgroup.com
Matthew K. Moen (SBN 305956)
mmoen@haineslawgroup.com
Susan J. Perez (SBN 329044)
sperez@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

DULCE CANONGO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

BEYOND RESOURCE SOLUTIONS, INC.,
a California Corporation; and DOES 1
through 100,

Defendants.

CASE NO.: 30-2022-01240752-CU-OE-CXC

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **WAGE STATEMENT PENALTIES
(LABOR CODE § 226, *et seq.*); and**
(2) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Dulce Canongo (“Plaintiff”), on behalf of herself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint (“Complaint”)
3 against Beyond Resource Solutions, Inc., a California Corporation; and Does 1 through 100,
4 inclusive (collectively “Defendants”), and on information and belief allege as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 action for recovery of unpaid penalties under California Labor Code §§ 226 and 2698 *et seq.*, in
8 addition to seeking declaratory relief and restitution. This class action is brought pursuant to
9 California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations
10 of the California Labor Code because the amount in controversy exceeds this Court’s
11 jurisdictional minimum.

12 **VENUE**

13 2. Venue is proper in this judicial district pursuant to California Code of Civil
14 Procedure §§ 395(a) and 395.5, as Defendants’ principal place of business is located in the County
15 of Orange. Defendants own, maintain offices, transact business, have an agent or agents within
16 the County of Orange, and/or otherwise are found within the County of Orange, and Defendants
17 are within the jurisdiction of this Court for purposes of service of process.

18 **PARTIES**

19 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
20 Plaintiff was, and currently is, a California resident. During the one year immediately preceding
21 the filing of the Complaint in this action, and within the statute of limitations periods applicable
22 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
23 employee in California. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
24 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
25 by California Labor Code §§ 226 and 2698 *et seq.*

26 4. Plaintiff is informed and believes, and based thereon alleges, that during the one
27 year preceding the filing of the Complaint and continuing to the present, Defendants did (and do)
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business by operating a staffing agency, specifically in the County of Orange, and therefore, were (and are) doing business in the County of Orange and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to further amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partner, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Class (as defined in Paragraph 11) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all similarly situated employees.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the Class (as defined in Paragraph 11).

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i. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226.

14. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Class. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform wage statement policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

15. **Typicality:** Plaintiff's claims are typical of the claims of the Class because Plaintiff was employed by Defendants in California during the applicable statute of limitations period. As alleged herein, Plaintiff, like the members of the Class, was furnished with non-compliant wage statements.

16. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Class. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Class and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage and hour class actions in state and federal courts in the past, and are committed to vigorously prosecuting this action on behalf of the members of the Class.

17. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws, and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Class make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee was required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they

1 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
2 their vastly superior financial and legal resources. Moreover, requiring each member of the
3 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
4 employees who would be disinclined to file an action against their former and/or current employer
5 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
6 employment. Further, the prosecution of separate actions by the individual class members, even
7 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
8 with respect to the individual class members against Defendants herein; and which would
9 establish potentially incompatible standards of conduct for Defendants; and/or legal
10 determinations with respect to individual class members which would, as a practical matter, be
11 dispositive of the interest of the other class members not parties to adjudications or which would
12 substantially impair or impede the ability of the class members to protect their interests. Further,
13 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
14 individual prosecution considering all of the concomitant costs and expenses attending thereto.
15 As such, the Class identified in Paragraph 11 is maintainable under Section 382 of the Code of
16 Civil Procedure.

17 **FIRST CAUSE OF ACTION**

18 **WAGE STATEMENT PENALTIES**

19 **(AGAINST ALL DEFENDANTS)**

20 18. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
23 and the Wage Statement Class with wage statements that included the inclusive dates for the
24 periods worked by the employees in violation of Labor Code § 226(a)(6).

25 20. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
26 with compliant wage statements resulted in actual injury, as said failures rendered Plaintiffs
27 unable to promptly and easily determine the pay period for which they were being paid.
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21. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et. seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et. seq.*

SECOND CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(AGAINST ALL DEFENDANTS)

22. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23. Defendants have committed several Labor Code violations against Plaintiff, members of the Class, and other aggrieved employees. Plaintiff, as an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Class, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) including, but not limited to: (1) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period, based on the following Labor Code violations:

- a. Failing to furnish Plaintiff and other aggrieved employees with compliant itemized wage statements in violation of Labor Code § 226.

24. On January 13, 2022, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 23(a).

25. Based on the foregoing, Plaintiff seeks to represent herself and all aggrieved employees, as defined by Labor Code § 2699(c), which includes all of Defendants' current and former non-exempt employees in California who received a wage statement from Defendants between January 13, 2021 and the present.

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26. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which she is entitled to recover under California Labor Code § 2699.

PRA YER

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as representative of the Class;
3. For an order appointing counsel for Plaintiff as counsel for the Class;
4. Upon the First Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
5. Upon the Second Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699(a) including, but not limited to: (1) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period, based on the Labor Code violations identified in Paragraph 23 (a).
6. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226 and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and
7. For such other and further relief the Court may deem just and proper.

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Dated: March 21, 2022

Respectfully submitted,
HAINES LAW GROUP, APC

Respectfully submitted,
HAINES LAW GROUP, APC


Fletcher W. Schmidt
Attorney for Plaintiff