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By _____, Deputy

Case Number:

34-2022-00319378

Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Shalom "Christine" Choo (State Bar No. 339947)
christine@diversitylaw.com
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (SBN 170131)
bill@polarislawgroup.com
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Edward W. Choi, Esq. SBN 211334
LAW OFFICES OF CHOI & ASSOCIATES
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Telephone: (213) 381-1515
Facsimile: (213) 465-4885
Email: edward.choi@choiandassociates.com

Attorneys for Plaintiff and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

BY FAX FOR THE COUNTY OF SACRAMENTO

JARED DEEVER, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

BLUE DIAMOND GROWERS, a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.:

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

1 Plaintiff Jared Deaver (“Plaintiff”) hereby submits this Representative Action Complaint
2 (“Complaint”) against Defendant Blue Diamond Growers (“Defendant”), and Does 1 through 50
3 (collectively, “Defendants”), individually, and on behalf of himself and all aggrieved employees
4 of Defendant, for penalties for violations of the California Labor Code as follows:

5 **INTRODUCTION**

6 1. This representative action is within the Court’s jurisdiction under California
7 Labor Code sections 226, 2698, *et seq.*, and the applicable Wage Orders of the Industrial Welfare
8 Commission (“IWC”).

9 2. This Complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against individuals who worked for Defendant.

11 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
12 jointly and severally, have acted intentionally and with deliberate indifference and conscious
13 disregard to the rights of all employees by failing to provide accurate and complete wage
14 statements to these employees.

15 **JURISDICTION AND VENUE**

16 4. The Court has jurisdiction over the violations of the California Labor Code
17 sections 226, 2698, *et seq.*, and the applicable IWC Wage Orders.

18 5. Venue is proper in Sacramento County because Plaintiff worked for Defendants
19 in Sacramento County, California.

20 **PARTIES**

21 6. In or around April 2019, Plaintiff was hired by Defendant as a Machine Operator.
22 On or about February 4, 2022, Plaintiff’s employment with Defendant ended. Throughout
23 Plaintiff’s employment, he has been an hourly, non-exempt employee.

24 7. Plaintiff was and is the victims of the policies, practices, and customs of
25 Defendant complained of in this action in ways that have deprived him of the rights guaranteed
26 by California Labor Code sections 226, 2698, *et seq.*, and the applicable IWC Wage Orders.

27 8. Plaintiff is informed and believes and based thereon alleges that Defendant was
28 and is a corporation which operates as an almond supplier throughout the State of California,

1 including in Sacramento County, California. On information and belief, Defendant maintains its
2 corporate headquarters in Sacramento, California.

3 9. Plaintiff is informed and believes, and based thereon alleges, that at all times
4 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
5 and partnerships, licensed to do business and actually doing business in the State of California.
6 As such, and based upon all the facts and circumstances incident to Defendants' business,
7 Defendants are subject to the California Labor Code and the applicable IWC Wage Orders.

8 10. Plaintiff does not know the true names or capacities, whether individual, partner
9 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
10 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 based thereon alleges that each of said fictitious defendants was responsible in some way for the
13 matters alleged herein and proximately caused Plaintiff and members of the general public and
14 aggrieved employees to be subject to the illegal employment practices, wrongs and injuries
15 complained of herein.

16 11. At all times herein mentioned, each defendant participated in the doing of the acts
17 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,
18 and each of them, were the agents, servants and employees of each of the other defendants, as
19 well as the agents of all Defendants, and at all times herein mentioned, were acting within the
20 course and scope of said agency and employment.

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

28 13. At all times herein mentioned, Defendants, and each of them, were members of,

1 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
2 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

3 14. At all times herein mentioned, the acts and omissions of various Defendants, and
4 each of them, concurred and contributed to the various acts and omissions of each and all of the
5 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
6 herein mentioned, Defendants, and each of them, ratified each and every act or omission
7 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
8 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
9 damages as herein alleged.

10 **FIRST CAUSE OF ACTION**

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

12 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

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

15 16. Plaintiff brings this cause of action as a proxy for the State of California and in
16 this capacity, seeks penalties on behalf of all Aggrieved Employees from February 28, 2021,
17 through the present, for Defendants' violations of Labor Code sections 226, 2698, *et seq.*, as
18 identified above, for failure to provide accurate and complete wage statements in violation of
19 Labor Code section 226. Specifically, whenever Plaintiff and Aggrieved Employees earned shift
20 differentials, the wage statements issued to the employees did not identify the accurate total
21 hours worked.

22 17. On or about February 28, 2022, Plaintiff sent written notice to the California
23 Labor & Workforce Development Agency ("LWDA") of Defendants' violation of Labor Code
24 section 226, pursuant to Labor Code section 2698, *et seq.*, the Private Attorneys General Act
25 ("PAGA"). Plaintiff also sent written notice of said Labor Code violations to Defendant via
26 certified mail pursuant to Labor Code section 2699.3. As of the date of the filing of this
27 Complaint, the LWDA has not provided written notice regarding whether it intends to investigate
28

1 the Labor Code violations set forth in Plaintiff's written notice.

2 18. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
3 and all applicable civil penalties for Defendants' violation of Labor Code sections 226 and 2698
4 for the time period described above, on behalf of himself and other Aggrieved Employees.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf
7 this suit is brought against Defendants, jointly and severally, as follows:

8 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
9 the PAGA, Labor Code section 226.3, and for costs and attorneys' fees;

10 2. On all causes of action for attorneys' fees and costs as provided by Labor Code
11 section 2699 and California Code of Civil Procedure section 1021.5; and

12 3. For such other and further relief as the Court may deem just and proper.
13

14 DATED: May 4, 2022

DIVERSITY LAW GROUP, P.C.

16 By: 

Larry W. Lee

Shalom "Christine" Choo

18 Attorneys for Plaintiff and the Aggrieved
19 Employees
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