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Kern County Superior Court
By Alejandra Velazquez, Deputy

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF KERN**
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12 **CINTHIA NAVARRO**, an individual, on
behalf of herself and other similarly aggrieved
13 employees and the State of California,

14 Plaintiff,

15 vs.

16 **WONDERFUL ORCHARDS LLC**, a
California corporation; and **DOES 1-50**,

17 Defendants.
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Unlimited Jurisdiction

Case No.: BCV-22-101079

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

COMPLAINT

1 Plaintiff Cinthia Navarro (“Plaintiff”), on behalf of herself and all other similarly aggrieved
2 employees and the State of California, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff, as a proxy for the State of California, brings a representative law
5 enforcement action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code
6 Section 2698 et seq., to recover civil penalties against Wonderful Orchards LLC (“Defendant” or
7 “Wonderful”). On behalf of herself, other aggrieved employees and the State, Plaintiff seeks to
8 recover civil penalties (75% payable to the Labor Workforce Development Agency and 25%
9 payable to aggrieved employees) owed by Defendants under Labor Code Section 2699 for failure
10 to pay all minimum and overtime wages, failure to timely pay all wages during employment,
11 failure to keep legally compliant payroll records, failure to provide accurate wage statements, and
12 failure to timely pay all wages upon cessation of employment.

13 **JURISDICTION AND VENUE**

14 2. Venue is proper in the County of Kern because work was performed by aggrieved
15 employees for Defendants in the County of Kern, including in Shafter, California, and the legal
16 obligations of Defendants to Plaintiff and other aggrieved employees were breached throughout
17 California, including in Kern County.

18 3. The California Superior Court has jurisdiction in this matter because Plaintiff is a
19 resident of California, Defendants are qualified to do business in California and Defendants
20 regularly conduct business in California. Further, there is no federal question at issue as the claims
21 herein are based solely on California law.

22 **THE PARTIES**

23 **A. Plaintiff**

24 4. Plaintiff is over the age of eighteen, and at times mentioned in this complaint, was
25 a resident of California. During the one-year period preceding the notification of her claims under
26 PAGA to Defendants and Labor Workforce and Development Agency (the “LWDA”), Plaintiff
27 was employed by Defendant Wonderful Orchards LLC in California as an hourly paid non-exempt
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1 employee performing agricultural related work, including spraying pesticides. Plaintiff was
2 employed by Defendant from sometime in February 2019 to September 8, 2021.

3 5. Plaintiff seeks to represent similarly situated persons who are Aggrieved
4 Employees. Aggrieved Employees are persons who, at any time since the date one year before the
5 date of Plaintiff's letter notifying Defendants and the LWDA of the alleged violations, were
6 subjected to the following violations of California law: Labor Code Sections 201, 202, 203, 205.5,
7 226, 558, 1174(d), 1174.5, 1194, and 1197, and the applicable Industrial Welfare Commission
8 ("IWC") Wage Orders, including Wage Order 14-2001.

9 6. As such, Plaintiff appears in this action on behalf of herself and on behalf of all
10 other similarly situated aggrieved employees and the State of California.

11 **B. Defendants**

12 7. Plaintiff is informed and believes, and thereon alleges, that Defendant Wonderful
13 Orchards LLC is a Delaware corporation with its principal place of business in Shafter, California.
14 Wonderful is in the farming industry. As part of its business, Wonderful grows and harvests fruits
15 and nuts and supplies its produce to vendors throughout the United States.

16 8. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
17 participation in the conduct herein alleged, of the Defendants sued herein as DOES, but is informed
18 and believes and thereon alleges that said Defendants are legally responsible for the wrongful
19 conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will
20 amend this complaint to allege the true names and capacities of the DOE Defendants when
21 ascertained.

22 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
23 all respects pertinent to this action as the agent of one or more of the other Defendants, carried out
24 a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
25 Defendant are legally attributable to one or more of the other Defendants.

1 **FACTS RELEVANT TO PLAINTIFF’S CLAIMS**

2 ***Unpaid Minimum and Overtime Wages***

3 10. Throughout Plaintiff’s employment by Defendants, including the one year prior to
4 the date of Plaintiff’s letter notifying Defendants and the LWDA of the alleged violations, Plaintiff
5 and other similarly aggrieved employees were subject to Labor Code Sections 1194, 1197 and the
6 applicable Industrial Welfare Commission (“IWC”) Wage Orders, including Wage Order 14-2001.
7 Under Labor Code Section 1194 and 1197 and subsection 4 of Wage Order 14, Plaintiff and other
8 similarly aggrieved employees were entitled to receive minimum wages for all hours worked.
9 Likewise, subsection 3 of Wage Order 14 entitled Plaintiff and other similarly aggrieved
10 employees, as of January 1, 2021, to overtime for all hours worked over 8 1/2 hours per day or 45
11 hours per week. As alleged below, Defendants failed to pay all wages for all hours worked in
12 violation of Labor Code Sections 1194 and 1197 and Wage Order 14. Defendants’ violation of the
13 applicable IWC Wage Orders, including Wage Order 14-2001, constitutes a violation of Labor
14 Code Section 558, which imposes civil penalties upon an employer for a violation relating to any
15 provision regulating hours and days of work in any order of the IWC. Labor Code §§ 558(a)(1)
16 and (2).

17 ***Failure to Include Incentive Pay in the Calculation of Regular Rate of Pay for Overtime***

18 11. At all relevant times, including the one year prior to the date of Plaintiff’s letter
19 notifying Defendants and the LWDA of the alleged violations, Plaintiff and other similarly
20 aggrieved employees earned overtime pay for working more than the hours prescribed in Wage
21 Order 14 (8 1/2 hours in a day or 45 hours in a week). In addition, Plaintiff and other similarly
22 aggrieved employees received various forms of non-discretionary incentive pay, including but not
23 limited to safety incentive payments as indicated on their wage statements as “Safety Incentiv,”
24 that are not excludable under California Law when calculating an employee’s regular rate of pay.

25 12. However, during the relevant periods on which Plaintiff and other similarly
26 aggrieved employees earned overtime and safety incentive pay, Defendants paid Plaintiff and other
27 similarly aggrieved employees overtime wages at a rate of one and one half their base hourly rate
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1 without factoring in the amount of safety incentive pay. As a result, Plaintiff and other similarly
2 aggrieved employees were underpaid all of their required overtime wages.

3 ***Failure to Pay Minimum and Overtime Wages for Pre and Post-shift Off the Clock Work***

4 13. At all relevant times, Plaintiff and other similarly aggrieved employees were
5 required to wear protective clothing and equipment, including a coverall, gloves, goggles, rubber
6 boots, respirator, and apron, to perform their work. Plaintiff and other similarly aggrieved
7 employees were required to be fully equipped and begin working at the start of their shift. As a
8 result, Plaintiff and other similarly aggrieved employees arrived 5-10 minutes before their
9 scheduled start time and put on the required protective gear and gather the required equipment.
10 However, Defendants did not compensate Plaintiff and other similarly aggrieved employees for
11 these 5-10 minutes of pre-shift work and only compensated them according to their scheduled start
12 time.

13 14. Additionally, at the end of their shift, Plaintiff and other similarly aggrieved
14 employees were required to remove their protective clothing and gear and return them to
15 Defendants. However, Defendants did not compensate Plaintiff and other similarly aggrieved
16 employees for this post-shift work and only compensated them according to their scheduled end
17 time. Plaintiff and other similarly aggrieved employees were not paid all minimum and overtime
18 wages they were owed for the time they spent donning and doffing the required protective clothing
19 and equipment.

20 ***Failure to Timely Pay All Wages During Employment***

21 15. At all relevant times, Defendants were subject to California Labor Code Section
22 205.5. Labor Code Section 205.5 states that all wages earned by an employee are due and payable
23 twice during each calendar month on days designated in advance by employer. As a result of the
24 off-the-clock work alleged above, Plaintiff and other similarly aggrieved employees were not
25 compensated by Defendants for all hours that they worked, including all hours worked over 8 1/2
26 hours in a day or 45 hours in a week. Defendants also failed to pay Plaintiff and other similarly
27 aggrieved employees at the correct regular rate of pay for overtime. Defendants willfully failed to
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1 timely pay Plaintiff and other similarly aggrieved employees for all wages due for work performed
2 and this failure continued through their employment by Defendants. As a result, Defendants
3 violated California Labor Code Section 205.5.

4 ***Failure to Keep Legally Compliant Payroll Records***

5 16. At all relevant times, Defendants were subject to Labor Code Section 1174 and
6 therefore obligated to comply with its terms. Labor Code Section 1174 states, “[e]very person
7 employing labor in this state shall... (d) [k]eep at a central location in the state or at the plants or
8 establishment at which employees are employed, payroll records showing the hours worked daily
9 and the wages paid to, ..., employees employed at the respective plants or establishments.” The
10 “Records” section of the applicable IWC Wage Order states that every employer shall keep
11 accurate information with respect to each one of its employees, including time records showing
12 when the employee begins and ends each work period and meal period, total hours worked in the
13 payroll period and applicable rates of pay, and total wages paid each payroll period.

14 17. Defendants failed to keep accurate information with respect to Plaintiff’s and other
15 similarly aggrieved employees’ payroll, including the total hours worked and total wages earned
16 (such as factoring in “Safety Incentiv” pay into overtime rate and the pre and post-shift off-the-
17 clock work to the total hours worked) each payroll period as required by the “Records” section of
18 Wage Order 14-2001. Defendants therefore knowingly and intentionally failed to maintain
19 accurate records as required by Labor Code Section 1174.

20 ***Inaccurate Wage Statements***

21 18. At all relevant times, Defendants employed Plaintiff and other aggrieved
22 employees subject to Labor Code Section 226. Labor Code Section 226(a) requires employers
23 furnish accurate itemized statements in writing that show, inter alia, “(1) gross wages earned, (2)
24 the total number of hours worked by the employee... (9) all applicable hourly rates...” Plaintiff
25 and other similarly aggrieved employees of Defendants received wage statements that did not list
26 all wages earned, including the minimum and overtime wages, did not accurately list total hours
27 worked and did not list the correct regular rate of pay for overtime wages, as a result of the above

1 alleged violations.

2 ***Unpaid Final Wages***

3 19. At all relevant times, Plaintiff and other similarly aggrieved employees were
4 covered by Labor Code Sections 201-203. Pursuant to Labor Code Sections 201 and 202,
5 Defendants are required to immediately pay all wages owed in the case of a discharge or
6 resignation when the resigning employee provided at least three days' notice of resignation or
7 within 72 hours for those employees who resign and provide less than 3 days' notice.

8 20. Plaintiff and other similarly aggrieved employees have ceased their employment
9 with Defendants. Upon cessation of the employment relationship (as prescribed by statute),
10 Plaintiff and other similarly aggrieved employees did not receive all wages owed. Namely,
11 Plaintiff and other aggrieved employees did not receive all their minimum and overtime wages
12 due to Defendants' failure to include incentive pay in the calculation of regular rate of pay for
13 payment of overtime and due to Defendants' failure to compensate them for the pre and post-shift
14 off the clock work. Therefore, Defendants have violated and continue to violate Labor Code
15 Sections 201 and 202, because even if they pay employees timely, they have not paid the
16 aforementioned wages and wage penalties.

17 21. Pursuant to Labor Code Section 203, Plaintiff and other similarly aggrieved
18 individuals are entitled to continuation of their wages, from the day of each discharge they
19 experienced until the wages are paid, up to a maximum of thirty (30) days per discharge.

20 **FIRST CAUSE OF ACTION**

21 **CIVIL PENALTIES UNDER PAGA**

22 **(By Plaintiff, Aggrieved Employees and the State of California against Defendants)**

23 22. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
24 though set forth herein.

25 23. At all times relevant to this action, Plaintiff and other aggrieved employees were
26 "aggrieved employees" within the meaning of Labor Code Section 2699.

27 24. Defendants' conduct as described herein, arising from Defendants' failure to pay
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1 all minimum and overtime wages, failure to timely pay all wages during employment, failure to
2 keep legally compliant payroll records, failure to provide to provide accurate wage statements, and
3 failure to pay final wages upon cessation of employment, constitute violations of Labor Code
4 Sections 201, 202, 203, 205.5, 226, 1174(d), 1174.5, 1194, 1197, and the applicable Industrial
5 Welfare Commission (“IWC”) Wage Orders, including Wage Order 14-2001.

6 25. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf
7 of herself and other current or former employees, to bring a civil action to recover civil penalties
8 pursuant to the procedures specified in Labor Code Section 2699.3.

9 26. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
10 Section 2699.3. By letter dated February 23, 2022, Plaintiff gave written notice to the Labor and
11 Workforce Development Agency (“LWDA”) via its online filing system and by certified mail to
12 Defendant Wonderful Orchards LLC of the specific provisions of the Labor Code alleged to have
13 been violated, including the facts and theories to support the alleged violations. A true and correct
14 copy of the February 23, 2022, letter is attached hereto as **Exhibit 1**. To date, more than 65 days
15 after the February 23, 2022 submission date, the LWDA has not advised Plaintiff that it intends to
16 investigate Plaintiff's allegations.

17 27. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff and other aggrieved
18 employees are entitled to civil penalties for Defendants’ violations of the Labor Code and the
19 applicable Wage Orders of the Industrial Welfare Commission, including Wage Order 14, in the
20 amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
21 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
22 subsequent violation. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties recovered
23 shall be distributed to the LWDA, and 25% shall be distributed to the aggrieved employees.

24 28. Moreover, Labor Code Section 1174.5 imposes a civil penalty of \$500 for an
25 employer’s failure to maintain accurate and complete records. This civil penalty is in addition to
26 the civil penalty of \$100 per pay period, per aggrieved employee that would be pursuant to Labor
27 Code Section 2699 for a violation of Labor Code Section 1174(d).

29. Defendants' failure to maintain accurate and complete records constitutes an injury as defined under Labor Code Section 1174. Therefore, Plaintiff and other similarly aggrieved employees have suffered an injury for the purposes of Labor Code Section 1174.5 and 2699 and are entitled to recover the greater of all actual damages or the amount specified in Sections 1174 and 2699 per violation.

30. Pursuant to Labor Code Section 2699(g), Plaintiff is entitled to an award of reasonable attorney's fees and costs in connection with her claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of herself and all others similarly aggrieved employees,
prays for relief and judgment against Defendants as follows:

1. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to aggrieved employees);
2. Costs;
3. Reasonable attorney's fees; and
4. Such other and further relief as this Court may deem just and proper.

Dated: May 2, 2022

MOSS BOLLINGER, LLP

By:

Jeremy F. Bollinger

Ari E. Moss

Jorge A. Flores

Attorneys for Plaintiff, CINTHIA NAVARRO

EXHIBIT 1

to

Complaint

Navarro v. Wonderful Orchards LLC



Moss Bollinger
LLP

JEREMY F. BOLLINGER
310.982.2984/fax: 818.963.5954
jeremy@mossbollinger.com

February 23, 2022

VIA PAGA ONLINE FILING

Secretary Natalie Palugyai
Labor & Workforce Development Agency
PAGA ADMINISTRATOR
1515 Clay Street, Ste. 801
Oakland, California 94612

**VIA U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Wonderful Orchards LLC
c/o CT Corporation System
330 N Brand Blvd, Suite 700
Glendale, CA 91203

Re: Notice pursuant to Labor Code Section 2699.3
Labor Code Private Attorneys General Act ("PAGA")

Employers: Wonderful Orchards LLC

Employee: Cinthia Navarro, on behalf of herself and on behalf of all current and former non-exempt agricultural workers employed by Wonderful Orchards LLC

Dear Secretary Palugyai:

Pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* ("PAGA"), representative employee, Cinthia Navarro ("Plaintiff"), on behalf of herself and all other similarly aggrieved California employees, gives notice that her former employer, Wonderful Orchards LLC ("Defendant") violated the California Labor Code throughout Plaintiff's employment and within the one year prior to the mailing of this letter as follows.

The Parties

Defendant Wonderful Orchards LLC is a Delaware Corporation with its principal place of business in Shafter, California. Defendant is in the farming industry. As part of its business, Defendant grows and harvests fruits and nuts and supplies its produce to vendors throughout the United States. Plaintiff was

15300 Ventura Boulevard, Suite 207, Sherman Oaks, California 91403

employed by Defendant as a sprayer. Plaintiff's main job duties consisted of spraying almond fields with pesticides. Plaintiff worked as an hourly paid non-exempt employee for Defendant from sometime in February 2019 to September 8, 2021.

Plaintiff seeks civil penalties on behalf of herself, the State of California, and all other aggrieved employees for the violations described herein.

Unpaid Minimum and Overtime Wages

Throughout Plaintiff's employment, Defendant employed Plaintiff and other similarly aggrieved employees subject to Labor Code Sections 1194 and 1197 and the IWC Wage Orders, including Wage Order 14-2001. Under Labor Code Section 1197 and subsection 4 of Wage Order 14, Plaintiff and other similarly aggrieved employees were entitled to receive minimum wages for all hours worked. Likewise, subsection 3 of Wage Order 14 entitled Plaintiff and other similarly aggrieved employees, as of January 1, 2021, to overtime wages for all hours worked over 8 ½ hours per day or 45 hours per week. As alleged below, Defendant failed to pay all wages for all hours worked in violation of Labor Code Sections 1194 and 1197 and Wage Order 14. Defendant's violation of the applicable IWC Wage Orders, including Wage Order 14-2001, constitutes a violation of Labor Code Section 558, which imposes civil penalties upon an employer for a violation relating to any provision regulating hours and days of work in any order of the IWC. Labor Code Section 558(a)(1) and (2).

1.) Failure to Include Incentive Pay in Calculation of Regular Rate of Pay for Overtime.

During the one year prior to the date of this letter, Plaintiff and other similarly aggrieved employees earned overtime pay for working more than the hours prescribed in Wage Order 14 (8 1/2 hours in a day or 45 hours in a week). In addition, Plaintiff and other similarly aggrieved employees received various forms of non-discretionary incentive pay, including but not limited to safety incentive payments as indicated on their wage statements as "Safety Incentiv," that are not excludable under California law when calculating an employee's regular rate of pay.

However, during the relevant periods on which Plaintiff and other similarly aggrieved employees earned overtime and safety incentive pay, Defendant paid Plaintiff and other similarly aggrieved employees overtime wages at a rate of one and one half their base hourly rate without factoring in the amount of the safety incentive pay. As a result, Plaintiff and other similarly aggrieved employees were underpaid all of their required overtime wages.

As Defendant failed to properly pay all overtime wages as required by California law, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation

2.) Failure to Pay Minimum and Overtime Wages for Pre and Post-Shift Off The Clock Work

Plaintiff and other similarly aggrieved employees were required to wear protective clothing and equipment, including a coverall, gloves, goggles, rubber boots, respirator, and apron, to perform their work. Plaintiff and other similarly aggrieved employees were required to be fully equipped and begin working at the start of their shift. As a result, Plaintiff and similarly aggrieved employees arrived 5-10 minutes before their scheduled start time to put on the required protective gear and gather the required equipment. However, Defendant did not compensate Plaintiff and other similarly aggrieved employees for these 5-10 minutes of pre-shift work and only compensated them according to their scheduled start time.

Additionally, at the end of their shift, Plaintiff and other similarly aggrieved employees were required to remove their protective clothing and gear and return them to Defendant. However, Defendant did not compensate Plaintiff and other similarly aggrieved employees for this post-shift work and only compensated them according to their scheduled end time. Plaintiff and other similarly aggrieved employees were not paid all minimum and overtime wages they were owed for the time they spent donning and doffing the required protective clothing and equipment.

As Defendant failed to pay all minimum and overtime wages, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period and \$200 per pay period for each additional violation.

Failure to Timely Pay All Wages During Employment

California Labor Code § 205.5 states that all wages earned by an employee are due and payable twice during each calendar month on days designated in advance by employer. As a result of the off-the-clock work alleged above, Plaintiff and other similarly aggrieved employees were not compensated by Defendant for all hours that they worked, including all hours worked over 8 1/2 hours in a day or over 45 hours in a week. Defendant also failed to pay Plaintiff and other similarly aggrieved employees at the correct regular rate of pay for overtime. Defendant willfully failed to timely pay Plaintiff and other similarly aggrieved employees all wages due for work performed and this failure continued through their employment by Defendant. As a result, Defendant violated California Labor Code § 205.5.

As Defendant failed to pay Plaintiff and other similarly aggrieved person as required by California Labor Code § 205.5, when such violations occurred, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Violations of Labor Code § 1174(d), 1174.5 and IWC Wage Order 14-2001(7)

Labor Code Section 1174 states, “[e]very person employing labor in this state shall...(d) [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” The “Records” section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period. Wage Order 14-2001(7).

Defendant failed to keep accurate information with respect to Plaintiff’s and other similarly aggrieved employees’ payroll, including the total hours worked, and applicable rates of pay (such as factoring in “Safety Incentiv” pay into overtime rate) for each payroll period as required by the “Records” section of the applicable IWC Wage Order. Therefore, Defendant knowingly and intentionally failed to keep and maintain accurate records as required by Labor Code Section 1174.

Labor Code Section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code Section 2699 for a violation of Labor Code Section 1174(d).

Defendant’s failure to maintain accurate and complete records constitutes an injury as defined under Labor Code Section 1174. Therefore, Plaintiff and other aggrieved employees have suffered an injury for purposes of Labor Code Sections 1174.5 and 2699 and are entitled to recover the greater of all actual damages or the amount specified in Sections 1174.5 and 2699 per violation.

As Defendant failed to maintain accurate records of Plaintiff and other similarly aggrieved employees as required by California Labor Code Section 1174, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Failure to Provide Legally Compliant Wage Statements

Labor Code § 226(a) requires employers to furnish accurate itemized wage statements in writing that show, inter alia, “(1) gross wages earned, (2) total hours worked by the employee...(9) all applicable hourly rates...” Plaintiff and other similarly aggrieved employees of Defendant received wage statements that did not list all wages earned, including the minimum and overtime

wages, did not accurately list total hours worked and did not list the correct regular rate of pay for overtime wages.

As Defendant violated Labor Code § 226(a), Defendant is liable for penalties of \$100 per pay period for the first wage statement within the statutory period, and \$200 per pay period for each additional violation.

Unpaid Final Wages

Plaintiff and other similarly aggrieved employees have ceased their employment with Defendant. Upon the cessation of the employment relationship (as prescribed by statute), they did not receive all wages owed. Namely, Plaintiff and other similarly aggrieved employees did not receive all their minimum and overtime wages due to Defendant's failure to include incentive pay in the calculation of regular rate of pay for payment of overtime and due to Defendant's failure to compensate them for the pre- and post-shift off the clock work. Therefore, Defendant has violated and continues to violate Labor Code Section 201 and 202, because even if it pays employees timely, it has not paid the aforementioned wages and wage penalties.

Pursuant to Labor Code Section 203, Plaintiff and other similarly aggrieved individuals are entitled to continuation of their wages, from the day of each discharge they experienced until the wages were paid, up to a maximum of thirty (30) days per discharge.

Civil Penalties

As a result of the foregoing, Defendant is liable for civil penalties as provided for by California law. Consequently, Plaintiff and all other similarly aggrieved employees of Defendant are entitled to recover all penalties permitted by the Labor Code and penalties provided for under California law, including but not limited to Labor Code § 2698 *et seq.*

Conclusion

Defendant violated and continues to violate the California law as described above. Plaintiff requests that the agency allow her to pursue these violations in the civil action currently pending and arising out of the original and first supplemental notice provided to the LWDA. Thank you for your immediate attention to this matter. If you have any questions, please do not hesitate to contact me at (310) 982-2984.

Sincerely,

MOSS BOLLINGER, LLP

A handwritten signature in blue ink, appearing to be "J. Bollinger", is written below the typed name.

February 23, 2022

Page 6 of 6

Jeremy F. Bollinger