

FILED
SUPERIOR COURT-STOCKTON
2022 APR 29 PM 3:42
BRANDON E. RILEY, CLERK
BY DANIELLE JEANDEBIER
DEPUTY

BOKHOUR LAW GROUP, P.C.

Mehrdad Bokhour, Esq., CA Bar No. 285256

mehrdad@bokhourlaw.com

Anwar D. Burton, Esq., CA Bar No. 253504

anwar@bokhourlaw.com

1901 Avenue of the Stars, Suite 450

Los Angeles, California 90067

Tel: (310) 975-1493; Fax: (310) 675-0861

FALAKASSA LAW, P.C.

Joshua S. Falakassa, CA Bar No. 295045

josh@falakassalaw.com

1901 Avenue of the Stars, Suite 450

Los Angeles, California 90067

Tel: (818) 456-6168; Fax: (888) 505-0868

Attorneys for Plaintiff and the Putative Classes

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

ANDREA CERVANTES, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

IMPORT GLASS CORPORATION a California
Corporation; and DOES 1-50, inclusive.

Defendants.

CASE NO.: STK-CV-UOE-2022-0000948

Assigned to Hon. Robert T. Waters, Dept. 11B

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

- (1) FAILURE TO PAY ALL MINIMUM WAGES;
- (2) FAILURE TO PAY ALL OVERTIME WAGES;
- (3) MEAL PERIOD VIOLATIONS;
- (4) REST PERIOD VIOLATIONS;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) WAITING TIME PENALTIES; and
- (7) UNFAIR COMPETITION
- (8) PAGA PENALTIES

DEMAND FOR JURY TRIAL

Complaint Filed: February 7, 2022

BY FAX

1 Plaintiff Andrea Cervantes (“Plaintiff”) on behalf of herself, the state of California, and all
2 other similarly situated and/or aggrieved non-exempt employees, alleges and complains of defendant
3 Import Glass Corporation, and DOES 1 to 50 (collectively, “Defendants”) and each of them, as
4 follows:

5 **INTRODUCTION**

6 1. Defendant Import Glass Corporation is an automotive glass replacement service,
7 providing glass replacement in California since 1984. Plaintiff brings this class action against
8 Defendants for alleged violations of the California Labor Code and Business and Professions Code.

9 2. As set forth below, Plaintiff alleges that Defendants have had a uniform payroll
10 practice/policy that unlawfully and unfairly rounds Plaintiff and other non-exempt employees’ time
11 entries to the nearest 10-minute increment. As a result, Plaintiff and other non-exempt employees
12 were not paid for all hours worked, including all minimum and overtime wages. Plaintiff further
13 alleges that Defendants’ meal and rest period policies and practices failed to provide her and all other
14 similarly situated employees with compliant/timely meal and rest periods, or premium wages at the
15 appropriate “regular rate of pay.” As a result, Plaintiff alleges that Defendants failed to provide non-
16 exempt employees with accurate written itemized wage statements and failed to timely pay all final
17 wages upon separation of employment.

18 3. Based on these alleged Labor Code violations, Plaintiff now brings this class action
19 and PAGA representative action to recover unpaid wages, restitution, penalties, and other related
20 relief on behalf of herself and all others similarly situated.

21 **JURISDICTION AND VENUE**

22 4. Plaintiff, on behalf of herself and all other similarly situated non-exempt employees
23 hereby brings this class action for recovery of unpaid wages and penalties under California Labor
24 Code §§ 201-203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 516, 1194, 1197.1, 1199 ,
25 2698, *et seq.*, and all applicable Industrial Welfare Commission Wage Orders (“Wage Orders”), in
26 addition to seeking declaratory relief and restitution pursuant to California Business and Professions
27 Code § 17200, *et. seq.* This class action is brought pursuant to California Code of Civil Procedure §
28 382.

5. This Court has jurisdiction over Defendants' violations of the California Labor Code and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional minimum.

6. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, as most of the acts and omissions complained of herein occurred in the City of Stockton, County of San Joaquin. Defendants own, maintain offices, transact business, have an agent or agents within the County of San Joaquin, and/or otherwise are found within the County of San Joaquin, and Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

7. At all relevant times herein, Plaintiff, who is over the age of 18, was and currently is a California resident residing in the State of California. Defendants employed Plaintiff as a non-exempt employee in Stockton, California in the County of San Joaquin.

8. Plaintiff is informed and believes and thereon alleges that defendant Import Glass Corporation is a California corporation authorized to and doing business in Stockton, California, and is and/or was the legal employer of Plaintiff and the Class Members during the applicable statutory periods. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein and has been deprived of the rights guaranteed to her by California Labor Code §§ 201-203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 1194, 1197.1, 1199, 2698, *et seq.*, and California Business and Professions Code § 17200 *et seq.*, and all applicable Wage Orders.

9. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the State of California, County of San Joaquin. Defendants operate a warehouse at 1045 E. Market Street, in Stockton, California.

10. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or

1 corporate, were responsible in some manner for the acts and omissions alleged herein, and
2 proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices
3 alleged herein.

4 11. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
5 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
6 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
7 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
8 them, were the agents, servants, and employees of each and every one of the other Defendants, as
9 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
10 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
11 and/or otherwise ratified each and every one of the acts or omissions complained of herein.

12 12. At all times mentioned herein, Defendants, and each of them, were members of and
13 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
14 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
15 alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the
16 Classes.

17 **COMMON FACTUAL ALLEGATIONS**

18 13. Defendants are an automotive glass replacement service, providing glass replacement
19 in California since 1984 with various locations across California. Defendants employed Plaintiff as a
20 non-exempt delivery driver during the relevant time period. Plaintiff and other non-exempt
21 employees, including, but not limited to, warehouse workers, delivery drivers, and other non-exempt
22 positions, were responsible for all aspects of Defendants' services throughout California.

23 14. At all relevant times, Plaintiff and other non-exempt employees regularly worked
24 various shifts, many of which were in excess of 8.0 hours in a workday and 40.0 hours in a workweek.
25 Plaintiff alleges that she and other non-exempt employees were also subjected to the same policies,
26 procedures, and practices, working conditions, and corresponding wage and hour violations to which
27 Plaintiff was subjected during her employment at the Stockton facility

28 15. First, at all relevant times, Defendants have had a consistent policy of unfairly rounding

1 Plaintiff and other non-exempt employees' time entries to the nearest tenth minute. As a result of this
2 practice, Plaintiff and other non-exempt employees are not compensated for all regular and overtime
3 hours they work in violation of Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and applicable
4 Wage Orders.

5 16. The Court in *See's Candy Shops v. Superior Court* (2012) 210 Cal.App.4th 889, 907,
6 held that rounding time policies can be lawful, "if the rounding policy is fair and neutral on its face
7 and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate
8 the employees properly for all the time they have actually worked,' (29 C.F.R. § 785.48; see DLSE
9 Manual, supra, §§ 47.1, 47.2.)."

10 17. Here, Defendants' rounding time policy is not neutral on its face as Plaintiff and other
11 non-exempt employees are subject to discipline, including termination for being tardy in reporting to
12 work, or returning from a meal or rest period. Moreover, because Defendants can track the time
13 worked by non-exempt employees to the minute, the policy itself exists not for the convenience or
14 benefit of the non-exempt employees who are trying to report their time on timecards or otherwise,
15 but for Defendants' benefit. As a result, the policy is not neutral on its face, and over a period of time,
16 Plaintiff and other non-exempt employees were not properly paid for all hours worked in violation of
17 Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and applicable Wage Orders.

18 18. Labor Code § 510 requires an employer to compensate an employee who works more
19 than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours
20 worked on the seventh consecutive day, no less than one and one-half times (1 1/2) the regular rate of
21 pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than
22 twice the regular rate of pay when an employee works more than twelve (12) hours in a workday or
23 more than eight (8) hours on the seventh consecutive day of work.

24 19. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
25 by an applicable state or local law, or by an order of the commission a civil penalty, restitution of
26 wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed,
27 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
28 is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred

1 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
2 underpaid regardless of whether the initial violation is intentionally committed.

3 20. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
4 are entitled to recover liquidated damages for violations of Labor Code § 1197.1. Based upon these
5 same factual allegations, Plaintiff and the other non-exempt employees are entitled to unpaid wages
6 and penalties under Labor Code §§ 1197.1, 1199.

7 21. Moreover, at all relevant times, Plaintiff and other non-exempt employees were denied
8 compliant and timely 30-minute off-duty meal periods as mandated by California law. First, as a
9 result of Defendants' uniform meal period policies/practices and work demands, Plaintiff and other
10 non-exempt employees were often unable to take uninterrupted 30-minute first meal periods before
11 the end of the fifth hour of work. On other occasions, non-exempt employees' meal periods are cut
12 short or interrupted due to work demands. Further, when Plaintiff and other non-exempt employees
13 worked in excess of 10.0 hours in a shift, which was a regular occurrence, they were not allowed and
14 permitted to take all mandated and timely second meal period before the end of the tenth hour of
15 work in violation of the Labor Code and applicable Wage Orders.

16 22. Each time Plaintiff and other non-exempt employees were not provided a legally
17 compliant meal period, Defendants also failed to provide meal period premiums for missed or non-
18 compliant meal periods at the "regular rate of pay" in accordance with Labor Code § 226.7 and *Ferra*
19 *v. Loews Hollywood Hotel, LLC* (2021) 11 5th 858 ("*Ferra*").

20 23. Accordingly, due to Defendants' uniform meal period policies/practices, Plaintiff and
21 other non-exempt employees were also regularly denied legally compliant meal periods in violation
22 of Labor Code 226.7, 510, 516, and applicable Wage Orders.

23 24. Furthermore, at all relevant times, Plaintiff and other non-exempt employees were also
24 not provided with 10 minutes of net rest period time for every 4 hours worked, or major fraction
25 thereof due to Defendants' rest period policies/practices and work demands. Indeed, Defendants did
26 not ensure that Plaintiff and other non-exempt employees took their rest periods at all. As a result,
27 Plaintiff and other non-exempt employees were and are routinely unable to take 10-minute duty free
28

1 rest periods for every major fraction of four hours worked. This includes a second rest period for
2 shifts in excess of six hours, and a third rest period for shifts in excess of 10 hours in a workday.

3 25. Each time Plaintiff and other non-exempt employees were unable to take compliant
4 rest periods, Defendants failed and continues to fail to adequately pay rest period premium payments
5 at the “regular rate of pay” as required by Labor Code § 226.7 and *Ferra*.

6 26. Accordingly, due to Defendants’ uniform policies/practices and work demands,
7 Plaintiff and other non-exempt employees were also regularly denied legally compliant rest breaks in
8 violation of Labor Code §§ 226.7, 512, and applicable Wage Orders.

9 27. As a result of Defendants’ failure to pay Plaintiff and other non-exempt employees for
10 all hours they were subject to the control of Defendants due their unlawful rounding practice/policy
11 and failure to adequately pay for meal and rest period premiums at the “regular rate of pay”,
12 Defendants issued wage statements which failed and continue to fail to accurately identify the gross
13 wages earned, the total hours worked, the net wages earned, and the correct corresponding number
14 of hours worked at each hourly rate, in violation of Labor Code § 226(a)(1, 2, 5, and 9).

15 28. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
16 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
17 employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for
18 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
19 deduction statement or fails to keep the required in subdivision (a) of Section 226.”

20 29. Thus, for the violations of Labor Code section 226 described above, Plaintiff and other
21 non-exempt employees may also recover Labor Code § 226.3 penalties for Defendants’ violations of
22 Labor Code § 226(a). As such, the wage statements Defendants issued to Plaintiff and other non-
23 exempt employees are in violation of Labor Code § 226 (a). Consequently, because Defendants failed
24 to comply with Labor Code § 226(a) and applicable Wage Orders, Plaintiff and other non-exempt
25 employees would be entitled to recover penalties under Labor Code §§ 226(e).

26 30. Finally, because of, Defendants’ failure to pay all minimum and overtime wages, and
27 meal and rest period premiums at the “regular rate of pay,” Defendants also failed and continue to
28 fail to pay Plaintiff and other non-exempt employees all wages owed at their time of separation from

1 employment in violation of Labor Code §§ 201-203 and applicable Wage Orders. Pursuant to Labor
2 Code §§ 201-202, an employer must provide non-exempt employees' wages at the time or discharge
3 or within up to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an
4 employer willfully fails to pay ... any wages of an employee who is discharged or who quits, the
5 wages of the employee shall continue as a penalty ..." for up to 30 days. Thus, non-exempt employees
6 would be entitled to recover penalties under Labor Code §§ 201-203.

7 **CLASS ACTION ALLEGATIONS**

8 31. Plaintiff brings this action on behalf of herself and the following Classes pursuant to
9 § 382 of the Code of Civil Procedure:

10 All non-exempt employees who work or worked for Defendants in
11 California, during the four years immediately preceding the filing of the
Complaint through the date of trial. ("Class");

12 All non-exempt employees who worked for Defendants in California and
13 who worked overtime hours during at least one shift, during the four years
14 immediately preceding the filing of the Complaint through the date of trial.
("Overtime Subclass");

15 All non-exempt employees who work or worked for Defendants in
16 California, and during the one year immediately preceding the filing of the
Complaint through the date of trial. ("Wage Statement Subclass");

17 All employees who work or worked for Defendants in California, and who
18 left their employ during the three years immediately preceding the filing of
19 the Complaint through the date of trial. ("Waiting Time Penalty Subclass")

20 (collectively "the Classes")

21 32. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
22 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
23 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
24 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
25 Defendants' employment and payroll records.

26 33. **Common Questions of Law and Fact Predominate/Well Defined Community of**
27 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
28

employees, which predominate over questions affecting only individual members including, without limitation to:

1. Whether Defendants' rounding timekeeping policies/practices resulted in a failure to pay for all hours worked to the members of the Classes;
2. Whether Defendants provided legally compliant meal and rest periods or proper compensation in lieu thereof to members of the Classes;
3. Whether Defendants furnished legally compliant wage statements to members of the Classes pursuant to Labor Code § 226(a); and
4. Whether the timing and amount of payment of final wages to members of the Waiting Time Subclass at the time of separation from employment were unlawful.

34. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policy and/or practice of rounding time entries to the nearest 10-minute interval resulted in a failure to pay minimum and overtime wages for all hours worked, Defendants' uniform policy of failing to provide compliant meal and rest periods or adequate compensation in lieu thereof, and Defendants' resulting failure to provide accurate itemized wage statements, and to pay for all wages due upon separation of employment. 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.

35. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes was deprived of minimum and overtime wages, was subjected to Defendants' uniform rounding policy, was deprived of meal and rest period premium wages at the "regular rate of pay," was subject to Defendants' uniform meal and rest period policies/practices, was not provided accurate itemized wage statements, and was not paid all wages owed at the time of his separation of employment.

1 36. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
2 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
3 attorneys are ready, willing and able to fully and adequately represent the members of the Classes.
4 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
5 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
6 members of the Classes.

7 37. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
8 important public interest in establishing minimum working conditions and standards in California.
9 These laws and labor standards protect the average working employee from exploitation by
10 employers who have the responsibility to follow the laws and who may seek to take advantage of
11 superior economic and bargaining power in setting onerous terms and conditions of employment. The
12 nature of this action and the format of laws available to Plaintiff and members of the Classes make
13 the class action format a particularly efficient and appropriate procedure to redress the violations
14 alleged herein. If each employee were required to file an individual lawsuit, Defendants would
15 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the
16 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

17 38. Moreover, requiring each member of the Classes to pursue an individual remedy would
18 also discourage the assertion of lawful claims by employees who would be disinclined to file an action
19 against their former and/or current employer for real and justifiable fear of retaliation and permanent
20 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
21 the individual class members, even if possible, would create a substantial risk of inconsistent or
22 varying verdicts or adjudications with respect to the individual class members against Defendants
23 herein; and which would establish potentially incompatible standards of conduct for Defendants;
24 and/or legal determinations with respect to individual class members which would, as a practical
25 matter, be dispositive of the interest of the other class members not parties to adjudications or which
26 would substantially impair or impede the ability of the class members to protect their interests.
27 Further, the claims of the individual members of the class are not sufficiently large to warrant
28 vigorous individual prosecution considering all of the concomitant costs and expenses attending

1 thereto. As such, the Classes identified in Paragraph 30 are maintainable as Classes under § 382 of
2 the Code of Civil Procedure.

3 **FIRST CAUSE OF ACTION**
4 **MINIMUM WAGE VIOLATIONS**
5 **(AGAINST ALL DEFENDANTS)**

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

7 40. Section 4 of the applicable Wage Orders and California Labor Code §§ 1197 and
8 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts
9 set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been
10 paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance
11 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to
12 the unpaid wages and interest accrued thereon.

13 41. At all relevant times herein, Defendants failed to conform their pay practices to the
14 requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform
15 and unlawful practice of rounding non-exempt employees' time entries to the nearest 10-minute
16 interval, which resulted in a failure to pay for all hours worked. Accordingly, Plaintiff and members
17 of the Classes were not compensated for all hours worked including, but not limited to, all hours they
18 were subject to the control of Defendants and/or suffered or permitted to work under the California
19 Labor Code and applicable Wage Orders.

20 42. Labor Code § 1198 makes unlawful the employment of an employee under conditions
21 that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer
22 who has failed to pay its employees the legal minimum wage is liable to pay those employees the
23 unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages
24 due and interest thereon.

25 43. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
26 Plaintiff and the Classes have sustained economic damages, including but not limited to unpaid wages
27 and lost interest, in an amount to be established at trial, and they are entitled to recover economic and
28

1 statutory damages and penalties and other appropriate relief as a result of Defendants' violations of
2 the California Labor Code and applicable Wage Orders.

3 44. Defendants' practice and uniform administration of corporate policy regarding illegal
4 employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members
5 of the Classes in a civil action for the unpaid amount of minimum wages, liquidated damages,
6 including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor
7 Code §§ 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure § 1021.5.

8 **SECOND CAUSE OF ACTION**

9 **FAILURE TO PAY ALL OVERTIME WAGES**

10 **(AGAINST ALL DEFENDANTS)**

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

12 46. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and
13 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours
14 worked and provide a private right of action for the failure to pay all overtime compensation for
15 overtime work performed.

16 47. At all times relevant herein, Defendants were required to properly pay Plaintiff and
17 members of the Classes for all overtime hours worked pursuant to California Labor Code § 1194 and
18 the applicable Wage Orders.

19 48. Section 3 of the applicable Wage Order requires an employer to pay an employee "one
20 and one-half (1 1/2) times the employee's regular rate of pay" for work in excess of 8 hours per
21 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
22 employer to pay an employee double the employee's regular rate of pay for work in excess of twelve
23 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in
24 the workweek. Defendants caused Plaintiff to work overtime and hours but did not compensate
25 Plaintiff or members of the Classes at one and one-half times their regular rate of pay for such hours.

26 49. Defendants failed to conform their pay practices to the requirements of the law. This
27 unlawful conduct includes, but is not limited to, Defendants' uniform and unlawful policy/practice
28

1 of rounding time entries to the nearest 10-minute interval which resulted in Plaintiff and the Classes
2 not being paid all overtime wages owed.

3 50. The foregoing policies and practices are unlawful and create entitlement to recovery
4 by Plaintiff and the members of the Classes in a civil action for the unpaid amount of overtime wages,
5 including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor
6 Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code of Civil Procedure §
7 1021.5.

8 **THIRD CAUSE OF ACTION**

9 **MEAL PERIOD VIOLATIONS**

10 **(AGAINST ALL DEFENDANTS)**

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

12 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in
13 their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff
14 and members of the Classes, with all required meal periods in accordance with the mandates of the
15 California Labor Code and applicable Wage Orders, for the reasons set forth in the Common
16 Allegations section of this Complaint.

17 53. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations at the "regular rate of pay," including interest thereon, statutory penalties, and costs
19 of suit pursuant to the applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b)
20 and 3289.

21 **FOURTH CAUSE OF ACTION**

22 **REST PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

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

25 55. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516 establish
26 the right of non-exempt employees to be provided with a rest period of at least ten (10) minutes for
27 each four (4) hour period worked, or major fraction thereof.

56. Due to their unlawful rest period policy and practices, Defendants did not authorize and permit Plaintiff and members of the Classes to take all rest periods to which they were legally entitled. Despite Defendants' violations, Defendants have not paid an additional hour of pay at the "regular rate of pay" to Plaintiff and members of the Classes for each violation, in accordance with California Labor Code § 226.7.

57. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Classes in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§ 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(AGAINST ALL DEFENDANTS)**

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

59. Labor Code 226(a) states in pertinent part the following:

“(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (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 only 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 (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. . . .”

60. As set forth above, during the Class Period, Defendants issued and continues to issue wage statements to its employees including Plaintiff and members of the Classes, which are inadequate under Labor Code Section 226(a).

61. As a result of Defendants failure to pay Plaintiff and the Classes for all regular and

1 overtime wages, and missed meal and rest period premiums at the “regular rate of pay,” Defendants
2 failed to include required information on Plaintiff and the Classes’ wage statements, including, but
3 not limited to, the gross wages earned, the net wages earned in violation of Labor Code section 226a.

4 62. Defendants’ failure to comply with section 226(a) of the Labor Code was knowing
5 and intentional.

6 63. As a result of Defendants’ issuance of inaccurate itemized wage statements to Plaintiff
7 and members of the Classes in violation of section 226(a) of the California Labor Code, Plaintiff and
8 members of the Classes are each entitled to recover an initial penalty of \$50, and subsequent penalties
9 of \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per every
10 member of the Classes from Defendants pursuant to section 226(e) of the Labor Code, costs and
11 reasonable attorneys’ fees.

12 **SIXTH CAUSE OF ACTION**

13 **WAITING TIME PENALTIES**

14 **(AGAINST ALL DEFENDANTS)**

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

16 65. The actionable period for this cause of action is three years prior to the filing of this
17 Complaint through the present, and on-going until the violation is corrected or the class is certified.

18 66. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and owing
19 to Plaintiff and the Waiting Time Subclass during the actionable period for this cause of action at or
20 around the time that their employment is or was terminated or ended.

21 67. Labor Code § 203 provides that if an employer willfully fails to pay compensation
22 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, then the
23 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

24 68. Defendants willfully failed to pay Plaintiff and the Waiting Time Subclass for all hours
25 worked, including all minimum and overtime wages, and their meal and rest period premiums at the
26 “regular rate of pay”, prior to or upon termination or separation from employment with Defendants
27 as required by Labor Code §§ 201 and 202.

28 69. As a result, Defendants are liable to Plaintiff and the Waiting Time Subclass for

1 waiting time penalties amounting to thirty (30) days wages for Plaintiff and the Waiting Time
2 Subclass pursuant to Labor Code § 203. *See, e.g.,* DLSE Manual, 4.3.4 (Failure to pay any sort of
3 wages due upon termination entitles an employee to recover waiting time penalties).

4 **SEVENTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION**

6 **(AGAINST ALL DEFENDANTS)**

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

8 71. Defendants have engaged and continue to engage in unfair and/or unlawful business
9 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
10 failing to pay for all hours worked, by failing to provide all legally required meal and rest periods or
11 pay premium payments at the regular rate of pay in lieu thereof, by failing to provide accurate wage
12 statements, and by failing to pay all earned wages at the time of separation from employment.

13 72. Defendants' utilization of these unfair and/or unlawful business practices deprived
14 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
15 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
16 Defendants' competitors who have been and/or are currently employing workers and attempting to
17 do so in honest compliance with applicable wage and hour laws.

18 73. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
19 herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of
20 monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or
21 converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

22 74. The acts complained of herein occurred within the last four years immediately
23 preceding the filing of the Complaint in this action.

24 75. Plaintiff was compelled to retain the services of counsel to file this court action to
25 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of
26 Defendants' current hourly non-exempt employees and to enforce important rights affecting the
27 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which
28 she is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code § 2698 et seq.)
(AGAINST ALL DEFENDANTS)

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

77. Defendants have committed several Labor Code violations against Plaintiff and other non-exempt employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 et seq., acting on behalf of herself and other non-exempt employees, bring this representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly non-exempt employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided based on the following Labor Code violations:

a. Failing to pay Plaintiff and other non-exempt employees for all hours worked, including all minimum and overtime wages in violation of Labor Code §§ 204, 510, 1194, 1197, 1198, and 1182.12

b. Failing to provide Plaintiff and other non-exempt employees with all of their statutorily mandated meal periods or compensation at the “regular rate of pay” in lieu thereof in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;

c. Failing to authorize and permit Plaintiff and other non-exempt employees with all of their statutorily mandated rest periods or compensation at the “regular rate of pay” in lieu thereof in violation of Labor Code §§ 226.7, and 516;

d. Failing to timely compensate Plaintiff and other non-exempt employees with all earnings at their separation of employment in violation of Labor Code §§ 201-203; and

e. Failing to furnish Plaintiff and other non-exempt employees with complete, accurate, itemized wage statements in violations of Labor Code § 226(a).

78. On or about February 4, 2022, Plaintiff notified Import Glass Corporation, via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website of

1 Defendant's violations of the California Labor Code § 2698 et seq., with respect to violations of the
2 California Labor Code identified in Paragraph 77(a)-(e). Now that sixty-five days have passed from
3 Plaintiff notifying Defendant and the LWDA of these violations, Plaintiff will have exhausted her
4 administrative requirements for bringing a claim under the Private Attorneys General Act with respect
5 to these violations.

6 79. Plaintiff was compelled to retain the services of counsel to file this court action to
7 protect their interests and the interests of other non-exempt employees, and to assess and collect the
8 civil penalties owed by Defendant. Plaintiff has hereby incurred attorneys' fees and costs, which she
9 is entitled to receive under California Labor Code § 2699.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiff prays for judgment for herself and for all others on whose behalf
12 this suit is brought against Defendants, as follows:

- 13 1. For an order certifying the proposed Classes;
- 14 2. For an order appointing Plaintiff as representative of the Classes;
- 15 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 16 4. Upon the First Cause of Action, for compensatory, consequential, general and special
17 damages according to proof pursuant to Labor Code §§ 204, 210, 510, and 1194;
- 18 5. Upon the Second Cause of Action, for compensatory, consequential, general and
19 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 1194, and 1198;
- 20 6. Upon the Third Cause of Action, for compensatory, consequential, general and special
21 damages according to proof pursuant to Labor Code §§ 226.7 and 512;
- 22 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
23 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;
- 24 8. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 226(a), and
25 reasonable costs and attorneys' fees;
- 26 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor
27 Code §§ 201-203.

1 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
2 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
3 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

4 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other non-exempt
5 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699
6 (a) and (f) including, but not limited to: (1) \$100 for each initial violation and \$200 for each
7 subsequent violation per employee per pay period for those violations of the Labor Code for which
8 no civil penalty is specifically provided under the Labor Code.

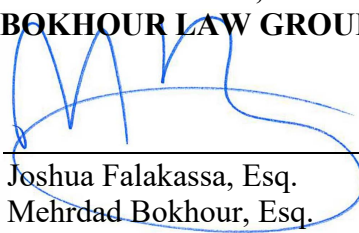
9 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
10 § 218.6 and Civil Code §§ 3287 and 3289;

11 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
12 218.5, 226, 1194, and Code of Civil Procedure § 1021.5; and

13 14. For such other relief that the Court may deem just and proper.

14 Dated: April 29, 2022

FALAKSSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

15
16 By: 

17 Joshua Falakassa, Esq.
18 Mehrdad Bokhour, Esq.
19 Anwar D. Burton, Esq.

20 Attorneys for Plaintiff and the Putative Classes
21
22
23
24
25
26
27
28