

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Lawrence Riff

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MICHAEL FORD, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

AVARTARA LLC; and DOES 1 through
50, inclusive,

Defendants.

Case No.: **22STCV19614**

**REPRESENTATIVE ACTION COMPLAINT
FOR VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND OVER \$25,000.00

1 Plaintiff Michael Ford (“Plaintiff”) submits this Representative Action Complaint
2 (“Complaint”) against Defendant Avartara LLC (“Defendant”) and DOES 1 through 50
3 (collectively referred to as “Defendants”), on behalf of himself and other aggrieved employees of
4 Defendants, for penalties pursuant to the Private Attorneys General Act (“PAGA”) for Defendants’
5 violation of the California Labor Code, as follows:

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California Labor
8 Code sections 204, 226 and 2698, *et seq.*, and the applicable Wage Orders of the California
9 Industrial Welfare Commission (“IWC”).

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

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees in Defendants’ failure to pay wages in a timely manner and
15 provide accurate itemized wage statements to their employees.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
17 engaged in, among other things a system of knowing and intentional violations of the California
18 Labor Code.

19 **JURISDICTION AND VENUE**

20 5. The Court has jurisdiction over the violations of California Labor Code sections
21 204, 226 and 2698, *et seq.*

22 6. Venue is proper in Los Angeles County because Plaintiff worked for Defendant in
23 Los Angeles, California.

24 **PARTIES**

25 7. Plaintiff was employed by Defendant from in or around November 2020 to in or
26 about July 2021.

27 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
28 complained of in this action in ways that have deprived him of the rights guaranteed by California

1 Labor Code sections 204, 226 and 2698, *et seq.*

2 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
3 Avartara LLC was and is an entity doing business in the State of California and in the County of
4 Los Angeles.

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

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

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

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

1 14. At all times herein mentioned, Defendants, and each of them, were members of, and
2 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
3 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

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

11 **FIRST CAUSE OF ACTION**

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

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

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

16 17. Plaintiff brings this cause of action as a proxy for the State of California, and in this
17 capacity, seeks penalties on behalf of all Aggrieved Employees from March 24, 2021, through the
18 present, for Defendant's violations of Labor Code sections 204 and 226.

19 18. Defendant failed in its affirmative obligation to timely pay wages to Aggrieved
20 Employees. Defendant, as a matter of policy and practice, paid Aggrieved Employees on a bi-
21 weekly basis and thus is subject to the timing requirements of Labor Code section 204. As a
22 pattern and practice, Defendant had a consistent policy of paying the wages of Aggrieved
23 Employees beyond the time limits as allowed pursuant to Labor Code section 204.

24 19. Defendant, as a matter of policy and practice, did not provide accurate records in
25 violation of Labor Code section 226. The wage statements provided to Plaintiff and Aggrieved
26 Employees failed to identify the accurate total hours worked, as required by Labor Code section
27 226(a)(2). The hours displayed on the wage statement do not correspond to the actual number of
28 hours worked during the applicable pay period.

1 20. On or about March 24, 2022, Plaintiff sent written notice to the California Labor &
2 Workforce Development Agency ("LWDA") of Defendant's violation of Labor Code sections 204
3 and 226, pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act
4 ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

5 21. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
6 and all applicable civil penalties for Defendant's violation of Labor Code sections 204 and 226, for
7 the time period described above, on behalf of himself and other Aggrieved Employees.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this
10 suit is brought against Defendants, jointly and severally, as follows:

- 11 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
12 Labor Code section 2698, *et seq.*, and for costs and attorneys' fees;
13 2. For attorneys' fees and costs as provided by California Labor Code sections 204,
14 226 and 2699, and Code of Civil Procedure section 1021.5; and
15 3. For such other and further relief the Court may deem just and proper.

16
17 DATED: June 15, 2022

DIVERSITY LAW GROUP, P.C.

18
19 By: _____

20 Larry W. Lee
21 Kristen M. Agnew
22 Nicholas Rosenthal
23 Attorneys for Plaintiff and the Aggrieved
24 Employees
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