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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

CARLOS YANEZ, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

TAFT ELECTRIC COMPANY, a California
Corporation; and DOES 1-50, inclusive.

Defendants.

CASE NO.: 56-2022-00563328-CU-OE-VTA

[Assigned to Hon. Jeffrey G. Bennett, Dept. 21]

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, et seq.)**

1 Plaintiff Carlos Yanez (“Plaintiff”) on behalf of himself, the State of California, and all others
2 similarly aggrieved employees, hereby brings this First Amended PAGA Representative Action
3 Complaint (“Complaint”) against defendant Taft Electric Company, and DOES 1 through 50,
4 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. This is a representative action brought pursuant to Labor Code § 2698 *et. seq.* on
7 behalf of the State of California and the group of aggrieved employees defined as follows: “All
8 individuals who are or were employed as hourly, non-exempt, employees by Defendants, or their
9 predecessors, affiliated, and/or merged entities, in the State of California from March 7, 2021, and
10 continuing to the present (“Aggrieved Employees).”

11 2. Plaintiff, on behalf of himself and all Aggrieved Employees presently or formerly
12 employed by Defendants during the liability period, brings this representative action pursuant to
13 Labor Code § 2699, *et seq.* seeking penalties for Defendants’ violation of California Labor Code §§
14 201-203, 204, 210, 226, 226(a), 226(e), 226.3, 226.7, 246, 510, 512, 516, 558, 1194, 1197.1, 1198,
15 1199, 2802-2804 *et seq.*, and applicable Industrial Welfare Commission Wage Orders (“Wage
16 Orders”).

17 3. This Court has jurisdiction over Defendants because, upon information and belief,
18 Defendants are citizens of California, Defendants have sufficient minimum contacts in California, or
19 otherwise intentionally avail themselves to the State of California so as to render the exercise of
20 jurisdiction over them by California courts consistent with the traditional notions of fair play and
21 substantial justice.

22 **VENUE**

23 4. Venue is proper in this judicial district pursuant to California Code of Civil Procedure
24 §§ 395(a) and 395.5, Defendants own, maintain offices, transact business, have an agent or agents in
25 Ventura within the County of Ventura, and/or otherwise are found within the County of Ventura, and
26 Defendants are within the jurisdiction of this Court for purposes of service of process.

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PARTIES

5. 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.

6. During the one-year immediately preceding Plaintiff giving PAGA Notice to the LWDA and within the statute of limitations periods applicable to the cause of action pled herein, Defendants employed Plaintiff as a non-exempt employee in Ventura, California in the County of Ventura.

7. Defendant Taft Electric Company is a corporation doing business in Ventura and across the State of California. Plaintiff is informed and believes, and based thereon alleges, that during the one-year preceding Plaintiff’s PAGA Notice to the LWDA and continuing to the present, Defendants employed Plaintiff and other similarly aggrieved employees within Ventura County and the State of California, and therefore, were (and are) doing business in Ventura County and the State of California.

8. Plaintiff is informed and believed, and thereon alleges, that at all times mentioned herein, Defendants were licensed to do business in California and the County of Ventura and were the employers of Plaintiff and the aggrieved employees.

9. 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 corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and Aggrieved Employees to be subject to the unlawful employment practices alleged herein.

10. Plaintiff is informed, and believes, and thereon alleges, that at all times, 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

1 at all times herein mentioned were acting within the course and scope of said agency and employment.
2 Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one
3 of the acts or omissions complained of herein.

4 11. At all times mentioned herein, Defendants, and each of them, were members of and
5 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
6 scope of and in pursuance of said joint venture, partnership, and common enterprise.

7 12. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of
8 Plaintiff and the Aggrieved Employees.

9 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

10 13. Defendants are a manufacturer of electrical components and professional contractor
11 providing construction services across California.

12 14. Defendants employed Plaintiff as a non-exempt “materials expediter” in Ventura,
13 California location starting on or about November 2020 until his separation from employment on or
14 about February 15, 2022.

15 15. Plaintiff and other non-exempt employees were and are employed as non-exempt
16 employees across Defendants’ California locations and include warehouse associates, forklift drivers,
17 material expediters, and other non-exempt positions throughout California.

18 16. At all relevant times, Plaintiff and other non-exempt employees regularly worked
19 various shifts, many of which were in excess of 8.0 hours in a workday and 40.0 hours in a workweek.
20 Plaintiff alleges that other non-exempt employees were also subjected to the same policies,
21 procedures, and practices, working conditions, and corresponding wage and hour violations to which
22 Plaintiff was subjected during his employment with Defendants.

23 17. First, at all relevant times, Plaintiff and other non-exempt employees were required to
24 perform work tasks and assignments off the clock, including working through their rest and meal
25 periods. Plaintiff and other non-exempt employees were required to start work before clocking in,
26 work through their lunches, and continue working after clocking out. Defendants used and continue
27 to use a mandatory policy and procedure that required Plaintiff and other non-exempt employees to
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1 clock in at the beginning of their work shift and clock out at the end of their work shift. Yet,
2 Defendants uniformly failed to compensate Plaintiff and other non-exempt employees the legal
3 minimum wage for the work that was required off-the-clock. This resulted in daily-uncompensated
4 time during which Plaintiff and other non-exempt employees were not paid a legal minimum wage.

5 18. Defendants' policies and procedures resulted in a failure to pay legal minimum wages
6 to Plaintiff and other non-exempt employees in violation of Labor Code §§ 1194, 1197, and
7 applicable Wage Orders.

8 19. Defendants' policies and procedures also resulted in a failure to pay overtime wages to
9 Plaintiff and other non-exempt employees in violation of Labor Code §§ 510, 1194, 1197, and
10 applicable Wage Orders.

11 20. Moreover, at all relevant times, Plaintiff and other non-exempt employees were denied
12 compliant and timely 30-minute off-duty meal periods as mandated by California law. As a result of
13 Defendants' uniform meal period policies/practices and operational requirements, Plaintiff and other
14 non-exempt employees were often unable to take 30-minute uninterrupted first meal periods before
15 the end of the fifth hour of work. Considering the demands of the job, Plaintiff and other non-exempt
16 employees were often required to work through their meal periods. Further, when Plaintiff and other
17 non-exempt employees worked in excess of 10.0 hours in a shift, which was a regular occurrence,
18 they were not allowed and permitted to take all mandated and timely second meal periods before the
19 end of the tenth hour of work in violation of the Labor Code and applicable Wage Orders.

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

24 22. Accordingly, due to Defendants' uniform meal period policies/practices and
25 operational requirements, Plaintiff and other non-exempt employees were regularly denied legally
26 compliant meal periods in violation of Labor Code §§ 226.7, 510, 516, and applicable IWC Wage
27 Orders.

1 23. Next, at all relevant times, Plaintiff and other non-exempt employees were not
2 provided with 10 minutes of net rest period time for every 4 hours worked, or major fraction thereof
3 due to Defendants' rest period policies/practices and work demands. Plaintiff, and other non-exempt
4 employees, were often unable to take their first rest period before the end of their fourth hour of work.
5 As a result, Plaintiff and other non-exempt employees were and are routinely unable to take legally
6 compliant (10) minute duty-free rest periods for every major fraction of four hours worked. This
7 includes a second rest period for shifts in excess of six hours, and a third rest period for shifts in
8 excess of 10 hours in a workday.

9 24. By not relieving all non-exempt employees of all duties during rest periods, Defendants
10 failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc.* (2016)
11 2 Cal. 5th 257, 269 [concluding that "during rest periods employers must relieve employees of all
12 duties and relinquish control over how employees spend their time."]. In *Augustus*, the California
13 Supreme Court expressly rejected the employers' assertion that it could provide an on-duty rest period
14 to employees who worked as security guards and further explained "that employers [must] relinquish
15 any control over how employees spend their break time and relieve their employees of all duties." *Id.*
16 at 273.

17 25. Each time Plaintiff and other non-exempt employees were unable to take compliant
18 rest periods, Defendants failed and continue to fail to adequately pay rest period premium payments
19 at the "regular rate of pay" as required by Labor Code § 226.7 and Ferra.

20 26. Accordingly, due to Defendants' uniform rest period policies/practices, Plaintiff and
21 other non-exempt employees were not provided all legally compliant rest breaks in violation of Labor
22 Code §§ 226.7, 512, and applicable Wage Orders.

23 27. Moreover, at all relevant times, Plaintiff and other non-exempt employees, at the
24 direction of Defendants and/or with Defendants' knowledge and acquiescence, have expended
25 amounts in the discharge of their duties, and for work-related purposes. Amongst other things,
26 Defendants required Plaintiff and other non-exempt employees to incur the costs associated with
27 business use of their personal cell phones and did not provide any reimbursement of these costs. (*See*,
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1 *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137 (“We hold that when
2 employees must use their personal cell phones for work-related calls, Labor Code section 2802
3 requires the employer to reimburse them. Whether the employees have cell phone plans with
4 unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their
5 cell phone bills.”)

6 28. Here, although Plaintiff and other non-exempt employees used their personal cell
7 phones and other charges in the discharge of their job duties with the knowledge or acquiescence of
8 Defendants, they were not reimbursed in any amount for expenses incurred. Defendants’ failure to
9 reimburse Plaintiff and other non-exempt employees for expenses incurred in their discharge of their
10 duties continues through the present day.

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

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

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

1 32. Finally, because of, Defendants' failure to pay all minimum and overtime wages, and
2 meal and rest period premiums at the "regular rate of pay," Defendants also failed and continue to
3 fail to pay non-exempt employees all wages owed at their time of separation from employment in
4 violation of Labor Code §§ 201-203 and applicable Wage Orders. Pursuant to Labor Code §§ 201-
5 202, an employer must provide non-exempt employees' wages at the time of discharge or within up
6 to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an employer willfully
7 fails to pay ... any wages of an employee who is discharged or who quits, the wages of the employee
8 shall continue as a penalty ..." for up to 30 days. Thus, non-exempt employees would be entitled to
9 recover penalties under Labor Code §§ 201-203.

10 33. Based on the foregoing, Plaintiff seeks to represent herself and all aggrieved
11 employees, as defined by Labor Code § 2699(c) in order to recover civil penalties as mandated by
12 Labor Code § 2699(f) and the California Court of Appeals in *Thurman v. Bayshore Management,*
13 *Inc.* (2012) 203 Ca. App. 4th 1112, 1147 and its progeny.

14 **FIRST CAUSE OF ACTION**

15 **PRIVATE ATTORNEYS GENERAL ACT**

16 *(Plaintiff and Similarly Aggrieved Employees Against All Defendants)*

17 34. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
18 the preceding paragraphs.

19 35. Defendants have committed several Labor Code violations against Plaintiff and other
20 similarly aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code
21 § 2698 et seq., acting on behalf of himself and other similarly aggrieved employees, brings this
22 representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly
23 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699
24 (a) and (f) including, but not limited to \$100 for each initial violation and \$200 for each subsequent
25 violation per employee per pay period for those violations of the Labor Code for which no civil
26 penalty is specifically provided based on the following Labor Code violations:

27 a. Failing to pay Plaintiff and other similarly aggrieved employees all overtime wages in
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1 violation of Labor Code §§ 204, 210, 510, 558, 1194, and 1198;

2 b. Failing to provide Plaintiff and other similarly aggrieved employees with all of their
3 statutorily mandated meal periods in violation of Labor Code §§ 204, 210, 510, 1194 and 1198;

4 c. Failing to authorize and permit Plaintiff and other similarly aggrieved employees with
5 all of their statutorily mandated rest periods in violation of Labor Code §§ 226.7 and 516;

6 d. Failing to furnish Plaintiff and other similarly aggrieved employees with complete,
7 accurate, itemized wage statements in violations of Labor Code § 226;

8 e. Failing to compensate Plaintiff and similarly aggrieved employees with all earnings at
9 their separation of employment in violation of Labor Code §§ 201-203; and

10 f. Failing to maintain accurate records on behalf of Plaintiff and similarly aggrieved
11 employees in violation of Labor Code § 1174.

12 g. Failing to reimburse Plaintiff and similarly aggrieved employees for necessary
13 business expenses in violation of Labor Code § 2802.

14 36. On or about March 7, 2022, Plaintiff notified Defendant Taft Electric Company via
15 certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its
16 website of Defendant’s violations of the California Labor Code § 2698 et. seq. with respect to
17 violations of the California Labor Code identified in Paragraph 35 (a)-(g). Now that sixty-five days
18 have passed from Plaintiff notifying Defendant of these violations, Plaintiff has exhausted his
19 administrative requirements for bringing a claim under the Private Attorneys General Act with respect
20 to these violations.

21 37. Plaintiff was compelled to retain the services of counsel to file this court action to
22 protect his interests and the interests of other similarly aggrieved employees, and to assess and collect
23 the civil penalties owed by Defendants. Plaintiff has therefore incurred attorneys’ fees and costs,
24 which he is entitled to receive under California Labor Code § 2699.

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PRAYER FOR RELIEF

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

1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other similarly aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to \$100 for each initial violation and \$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 under the Labor Code;

2. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§2698 *et seq.*, and Code of Civil Procedure §1021.5; and

3. For such other and further relief, the Court may deem just and proper.

Dated: May 13, 2022

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

By: Anwar Burton
Joshua Falakassa, Esq.
Mehrddad Bokhour, Esq.
Anwar D. Burton, Esq.

Attorneys for Plaintiff and the Aggrieved Employees

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 eighteen years and not a party to the within action; my business address is 1901 Avenue of the Stars,
Suite 450, Los Angeles, California 90067.

5 On May 13, 2022, I served the following document(s) described as **FIRST AMENDED**
6 **REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by placing
true copies thereof enclosed in sealed envelopes addressed as follows:

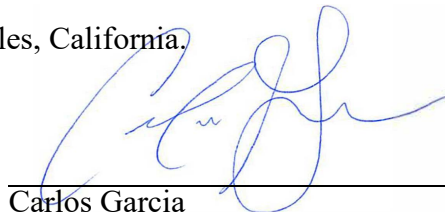
7 Kathleen Fellows, Esq.
8 LIGHTGABLER
9 760 Paseo Camarillo, Suite 300
Camarillo, California 93010

10 **Counsel for defendant Taft Electric**
Company

11 **BY MAIL:** I caused such envelope to be deposited in the mail at Los Angeles, California.
12 The envelope was mailed with postage thereon fully pre-paid. I am readily familiar with the firm's
13 practice of collection and processing of correspondence for mailing. Under that practice, the
correspondence is deposited with the U.S. Postal Service on that same day in the ordinary course of
business.

14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct.

16 Executed on May 13, 2022, at Los Angeles, California.

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18 _____
Carlos Garcia

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PROOF OF SERVICE