

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
lwlee@diversitylaw.com
kagnew@diversitylaw.com
nrosenthal@diversitylaw.com

William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE**

SABRINA GILBERT, as an individual and
on behalf of aggrieved employees,

Plaintiff,

vs.

CENTRAL CALIFORNIA BAKING
COMPANY, an Oregon corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: VCU292216

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

DEMAND OVER \$25,000.00

**Assigned to Judicial Officer
Bret D Hillman**

For All Purposes

Case Management Conference

10/20/2022 08:30 AM - Department 07

ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
06/22/2022

By: Brenda Barrios, Deputy Clerk

1 Plaintiff Sabrina Gilbert (“Plaintiff”) submits this representative action complaint
2 (“Complaint”) against Defendant Central California Baking Company (“Defendant”) and Does 1
3 through 50 (collectively referred to as “Defendants”), on behalf of herself and aggrieved
4 employees of Defendants for penalties and/or damages for failure to provide accurate itemized
5 wage statements as follows:

6 **INTRODUCTION**

7 1. This action is within the Court’s jurisdiction under California Labor Code section
8 226 and the applicable Wage Orders of the California Industrial Welfare Commission (“IWC”).

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

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

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

18 **JURISDICTION AND VENUE**

19 5. The Court has jurisdiction over the violations of California Labor Code section 226.

20 6. Venue is proper in Tulare County because Plaintiff worked for Defendant in Exeter,
21 California.

22 **PARTIES**

23 7. Plaintiff was employed by Defendant from in or around June 2020 to in or about
24 July 26, 2021.

25 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
26 complained of in this action in ways that have deprived her of the rights guaranteed by California
27 Labor Code section 226.

28 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant Central

1 California Baking Company was and is an Oregon corporation doing business in the State of
2 California and in the County of Tulare.

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

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

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

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

27 14. At all times herein mentioned, Defendants, and each of them, were members of, and
28 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and

1 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

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

9 **FIRST CAUSE OF ACTION**

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

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

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

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

17 18. Defendant failed in its affirmative obligation to provide accurate records in
18 violation of Labor Code section 226. The wage statements provided to Plaintiff and Aggrieved
19 Employees failed to identify the accurate total hours worked, as required by Labor Code section
20 226(a)(2). The hours displayed on the wage statement do not correspond to the actual number of
21 hours worked during the applicable pay period whenever wages for overtime or shift differential
22 wages were paid

23 19. On or about April 18, 2022, Plaintiff sent written notice to the California Labor &
24 Workforce Development Agency ("LWDA") of Defendant's violation of Labor Code section 226,
25 pursuant to Labor Code section 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). To
26 date, the LWDA has not responded to Plaintiff's written notice.

27 20. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
28 and all applicable civil penalties for Defendant's violation of Labor Code section 226, for the time

period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

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

1. Upon the First Cause of Action, for damages or penalties pursuant to statute as set forth in California Labor Code sections 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

2. On all causes of action, for attorneys' fees and costs as provided by California Labor Code sections 226 and 2699, and Code of Civil Procedure section 1021.5; and

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

DATED: June 22, 2022

DIVERSITY LAW GROUP, P.C.

By: _____

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

Attorneys for Plaintiff and Aggrieved Employees