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Counsel for Plaintiff ALMA SANCHEZ

Assigned to Judicial Officer
David C Mathias

For All Purposes

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF TULARE

ALMA SANCHEZ, on behalf of all others
similarly aggrieved,

Plaintiff,

vs. CIBUS CORPORATION dba CHEF
BRANDS, a California corporation, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO. VCU292117

REPRESENTATIVE COMPLAINT UNDER
THE PRIVATE ATTORNEYS GENERAL
ACT, LABOR CODE SECTION 2698, *et seq.*

JURY TRIAL DEMANDED

Case Management Conference

10/17/2022 08:30 AM - Department 01

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1 to Plaintiff and all other similarly aggrieved employees employed by Defendant in California.
2 These violations subject Defendant to civil penalties as set forth in the foregoing statutes as
3 well as other provisions of the Labor Code, including without limitation Labor Code sections
4 203, 210, 225.5, 226.3, 256, 1174.5, 1194.2, 1197.1, and 2699, and section 20 of all
5 applicable IWC Wage Orders.

6 FIRST CAUSE OF ACTION

7 (Violation of Private Attorneys General Act – Labor Code §§ 2698, et seq.)

8 7. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

9 8. California law mandates that employees in California be paid for all hours worked,
10 up to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage.
11 Defendant violated California minimum wage laws by requiring, suffering or permitting Plaintiff
12 and other aggrieved employees to work without compensation in part by using a rounding system
13 that, as applied, systematically deprived them of compensable hours worked because the time
14 recording system implemented by Defendant resulted in understating actual compensable hours
15 worked due to the rounding. They also lost time during their lunch periods, as Defendant
16 automatically deducted 30 minutes even though Plaintiff and other aggrieved employees had to cut
17 their meal period short to get back to their work station. Accordingly, Plaintiff and similarly
18 aggrieved employees were not paid for all hours worked causing minimum wage violations
19 pursuant to Labor Code sections 1194-1199, and all applicable Wage Orders, including Wage
20 Order 1-2001. These violations subject Defendant to civil penalties under the foregoing Labor
21 Code sections and other applicable Labor Code sections, including without limitation Labor Code
22 sections 1197.1 and 2699, and Section 20 of the applicable Wage Orders. Each violation of each
23 Labor Code section and Wage Order provision results in a separate civil penalty, for each
24 aggrieved employee, for each pay period during which the referenced statutes and Wage Order
25 provisions were violated.

26 9. Plaintiff and the class members regularly worked periods of more than five hours
27 in a workday without being provided mandatory thirty-minute, duty-free meal periods before the
28 end of the fifth hour of work. Upon information and belief, Defendant failed to maintain a

1 company meal period policy compliant with California law. Plaintiff and similarly aggrieved
2 employees were consistently unable to take timely, thirty-minute uninterrupted meal periods due
3 to Defendant's rounding and "auto deduct" policies. Defendant also failed to pay Plaintiff and
4 other aggrieved employees an additional hour of wages at their regular rates of compensation for
5 each workday a meal period was not provided, or was late, short or interrupted. This conduct
6 results in violations of Labor Code sections 512, 226.7, and IWC Wage Order 1-2001 (and all
7 applicable Wage Orders), § 12(A). These violations subject Defendant to civil penalties under
8 Labor Code section 2699, and Wage Order 1-2001 (and all applicable Wage Orders), section 20.
9 Each violation of each Labor Code section and Wage Order provision results in a separate civil
10 penalty, for each aggrieved employee, for each pay period during which the referenced statutes
11 and Wage Order provisions were violated.

12 10. California law provides that, at the time of each payment of wages, the employer
13 must provide each employee with an itemized statement showing, inter alia, gross wages earned,
14 total hours worked, all deductions taken, net wages earned, the inclusive dates for which the
15 employee is being paid, the employee's name and last four digits of their social security number,
16 the name and address of the legal entity that it is the employer, and all applicable hourly rates in
17 effect during the pay period and all hours worked at each rate.

18 11. Defendant knowingly and intentionally failed to provide Plaintiff and other
19 similarly situated and aggrieved employees with proper, itemized wage statements as the wage
20 statements provided by Defendant do not accurately reflect, inter alia, gross wages earned, total
21 hours worked, and net wages earned. Given that Defendant rounded employee time punches to
22 the employees' detriment and underpaid them accordingly, the wage statements are inaccurate on
23 their face and do not accurately state the actual, precise number of hours worked.

24 12. Within the meaning of Labor Code section 226, Defendants knowingly and
25 intentionally failed to provide Plaintiff and the class members with proper, itemized wage
26 statements Accordingly, Defendant has violated Labor Code section 226 as to Plaintiff and all
27 similarly aggrieved employees. These violations subject Defendant to civil penalties under the
28 Labor Code, including without limitation Labor Code sections 226.3 and 2699. Each violation of

1 each Labor Code section and Wage Order provision, for each aggrieved employee, results in a
2 separate civil penalty.

3 13. California law requires employers to keep “accurate and complete” payroll records
4 showing, among other things, the hours worked daily by all non-exempt employees. The
5 applicable IWC Wage Order similarly requires employers to keep time records showing, inter
6 alia, when the employees begins and end each work period and reflecting the times during which
7 all owed meal periods are provided each day. At all relevant times, Defendant has failed, and
8 continues to fail, to keep the required time records by, including but not limited to, by failing to
9 accurately record hours worked due its time rounding and auto-deduct policies.

10 14. Defendant’s failure to keep “accurate and complete” payroll records for Plaintiff
11 and other similarly aggrieved employees violates Labor Code sections 1174, 1198-99, and Wage
12 Order 1-2001 (and all applicable Wage Orders), section 7. These violations subject Defendant to
13 civil penalties under the Labor Code, including without limitation sections 1174.5 and 2699.
14 Each violation of each Labor Code section and Wage Order provision, for each aggrieved
15 employee, results in a separate civil penalty.

16 15. Labor Code sections 1198 and 1199 make it unlawful to employ any individual
17 under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to
18 comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174,
19 1197, and 1198, or other order or ruling of the IWC. Defendant’s violations with respect to
20 minimum wages and/or overtime wages, as alleged herein, result in separate violations of Labor
21 Code sections 1198 and 1199, and subject Defendant to civil penalties under the Labor Code,
22 including without limitation Labor Code sections 1197.1 and 2699. Each violation of each Labor
23 Code section and Wage Order provision, for each aggrieved employee, results in a separate civil
24 penalty.

25 16. California Labor Code section 204 requires an employer to pay employees all
26 wages due and payable at least twice each calendar month. For reasons discussed herein,
27 Defendant failed to comply with Labor Code section 204 by failing to timely pay twice during
28 each calendar month all wages due and payable to Plaintiff and other similarly aggrieved

1 employees. Defendant's violations of Labor Code section 204 subject Defendant to civil
2 penalties, including but not limited to the penalties set forth in California Labor Code sections
3 210 and 2699. Each violation results in a separate civil penalty, for each aggrieved employee for
4 each pay period during which the statutory provisions were violated.

5 17. Labor Code section 201 requires employers to pay all wages earned and unpaid at
6 the time of discharge, immediately upon discharge. Labor Code section 202 states similar
7 provisions with respect to employees who resign. Upon information and belief, Defendant has a
8 policy and practice of failing to timely pay wages upon discharge, and Plaintiff still has not
9 received her final check despite repeated requests. Further, for Plaintiff and all aggrieved
10 employees no longer employed by Defendant, Defendant still has not paid such aggrieved
11 employees all wages earned and unpaid at the time of discharge, in that Defendant has not paid
12 for all minimum wages for the reasons alleged above. These violations subject Defendant to civil
13 penalties under the Labor Code, including without limitation Labor Code sections 203, 256 and
14 2699. Each violation results in a separate civil penalty, for each aggrieved employee for each pay
15 period during which the statutory provisions were violated.

16 18. Plaintiff complied with the procedures for bringing suit specified in Labor Code
17 Sections 2699.3 and 2699.5. By letter dated and postmarked April 5, 2022, Plaintiff gave
18 written notice to the California Labor & Workforce Development Agency ("LWDA") via
19 electronic submission at PAGAfilings@dir.ca.gov, and via certified mail to Defendant, of the
20 specific provisions of the Labor Code and Wage Orders allegedly violated, including the facts
21 and theories to support the alleged violations.

22 23. Under Labor Code Section 2699.3, the LWDA must give written notice by
23 certified mail to the parties it intends to investigate the alleged violations within 65 days of the
24 date of the complainant's written notice. As of the filing of this Complaint, the LWDA has not
25 provided the parties any notice of its intention to investigate Plaintiff's claims on behalf of
26 himself and other aggrieved employees. As of the filing of this complaint, under Labor Code
27 Section 2699.3(c)(2)(B)(ii), by letter dated April 25, 2022 Defendant responded to Plaintiff's
28 PAGA notice in an attempt to cure the alleged violations of Labor Code Section 226(a)(8).

1 As to all other alleged violations, Plaintiff has exhausted all administrative remedies required
2 by law.

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

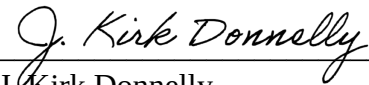
5 PRAYER

6 WHEREFORE, Plaintiff prays for judgment against each Defendant, jointly and severally,
7 as follows:

- 8 1. For civil penalties according to proof;
- 9 2. For reasonable attorney's fees and costs of suit; and
- 10 3. For such other and further relief as the Court deems just and proper.

11 Dated: June 16, 2022

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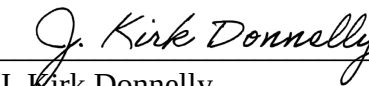
13 
14 J. Kirk Donnelly
15 Attorneys for Plaintiff Alma Sanchez

16 DEMAND FOR JURY TRIAL

17 Plaintiff hereby demands a trial by jury on all claims so triable.

18 Dated: June 16, 2022

LAW OFFICES OF J. KIRK DONNELLY, APC

20 
21 J. Kirk Donnelly
22 Attorneys for Plaintiff Alma Sanchez