

ELECTRONICALLY FILED

Superior Court of California
County of Sacramento

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REBECCA SIMMONS-BOURGEOIS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

REBECCA SIMMONS-BOURGEOIS, as a
Private Attorney General,

Plaintiff,

vs.

WAYNE PERRY, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendant.

Case No.: **25CV008354**

COMPLAINT

**VIOLATION OF CALIFORNIA LABOR
CODE § 2699, ET SEQ. (PRIVATE
ATTORNEYS GENERAL ACT)**

1 Plaintiff REBECCA SIMMONS-BOURGEOIS (“Plaintiff”) as a Private Attorney
2 General (“Plaintiff”), for Plaintiff’s representative claims only, also known as non-individual
3 claims, pursuant to California Labor Code § 2699, et seq. (“Private Attorneys General Act
4 claims”), based upon facts that either have evidentiary support or are likely to have evidentiary
5 support after a reasonable opportunity for further investigation and discovery, allege as follows:

6 **JURISDICTION AND VENUE**

7 1. Plaintiff brings this action against Defendant WAYNE PERRY, INC. and DOES
8 1 THROUGH 50 (hereinafter also collectively referred to as “Defendant”) as a representative
9 action for Plaintiff’s representative claims only, also known as non-individual claims, on behalf
10 of herself and certain other current and former non-exempt employees of Defendant against whom
11 one or more of the alleged violations was committed (hereinafter collectively referred to as the
12 “Aggrieved Employees”) pursuant to California Labor Code sections 2698, et seq. Plaintiff is an
13 aggrieved employee against whom one or more of the alleged violations was committed. The civil
14 penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will
15 be established according to proof at trial.

16 2. The Court has jurisdiction over this action pursuant to the California Constitution,
17 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”
18 except those given by statute to other courts. The statutes under which this action is brought do
19 not specify any other basis for jurisdiction.

20 3. This Court has jurisdiction over Defendant because, upon information and belief,
21 Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise
22 intentionally avails itself of the California market so as to render the exercise of jurisdiction over
23 it by the California courts consistent with traditional notions of fair play and substantial justice.

24 4. Venue is proper in this Court because, upon information and belief, Defendant
25 maintains offices, has agents, and/or transacts business in the State of California, County of
26 Sacramento.

26 **PARTIES**

27 5. Plaintiff REBECCA SIMMONS-BOURGEOIS is an individual residing in the
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1 State of California, County of Butte. Plaintiff REBECCA SIMMONS-BOURGEOIS is not suing
2 in her individual capacity; she is proceeding solely under the PAGA, on behalf of the State of
3 California for all aggrieved employees, including herself and other aggrieved employees.

4 6. Defendant WAYNE PERRY, INC. is and at all times herein mentioned was, a
5 corporation organized and existing under the laws of the State of California and registered to do
6 business in the state of California.

7 7. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive,
8 and therefore sues these defendants by such fictitious names. The Doe defendants may be
9 individuals, partnerships, or corporations. Plaintiff is informed and believe, and thereon alleges,
10 that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent,
11 servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at
12 all times mentioned acting within the scope, purpose, consent, knowledge, ratification and
13 authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this
14 Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and
15 believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in
16 some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged
17 were proximately caused by its conduct.

18 8. Defendant is and at all times herein mentioned was, (a) conducting business in the
19 County of Sacramento, State of California, and (b) the employer of Plaintiff consistent with the
20 California Labor Code and Industrial Welfare Commission Wage Orders ("Wage Orders").

21 9. Plaintiff further alleges that Defendant, directly or indirectly controlled or affected
22 the working conditions, wages, working hours, and conditions of employment of Plaintiff and
23 Aggrieved Employees so as to make each of said Defendant employers and employers jointly
24 liable under the statutory provisions set forth herein.

25 **GENERAL ALLEGATIONS**

26 10. Defendant is an environmental compliance, construction, and engineering services
27 provider.

28 11. Defendant employed Plaintiff to work as a lead dispatcher from approximately

September 2012 to approximately February 2, 2024.

12. At all relevant times set forth herein, Defendant employed Plaintiff and Aggrieved Employees as hourly-paid or non-exempt employees.

13. Throughout the time period involved in this case, Defendant had the authority to hire and terminate Plaintiff and Aggrieved Employees; to directly or indirectly control work rules, working conditions, wages, working hours, and conditions of employment of Plaintiff and Aggrieved Employees; and to hire and terminate the employment of Plaintiff and Aggrieved Employees.

14. At all times herein mentioned, Defendant was subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

15. Plaintiff is informed and believes, and thereon alleges that Defendant engaged in an ongoing and systematic scheme of wage abuse against its hourly-paid or non-exempt employees. As set forth in more detail below, this scheme involved, *inter alia*, regularly requiring Plaintiff and Aggrieved Employees to work off the clock without compensation, thereby failing to pay them for all hours worked, including minimum and overtime wages. Defendant also implemented time rounding practices that resulted in the systematic underpayment of wages to Plaintiff and the Aggrieved Employees, including minimum and overtime wages. Defendant also implemented policies that prohibited Plaintiff and the Aggrieved Employees from accurately recording the actual time worked, resulting in a failure to pay Plaintiff and the Aggrieved Employees all wages owed. In addition, Defendant routinely failed to permit Plaintiff and the Aggrieved Employees to take timely and duty-free meal periods and rest periods in violation of California law.

16. Throughout the time period involved in this case, Defendant implemented policies and practices which failed to provide Plaintiff and Aggrieved Employees with timely and duty-free meal periods. Defendant routinely failed to relieve Plaintiff and Aggrieved Employees of all duties during their meal periods, regularly failed to relinquish control over Plaintiff and Aggrieved Employees during their meal periods, regularly failed to permit Plaintiff and Aggrieved Employees a reasonable opportunity to take their meal periods, and regularly impeded or

discouraged Plaintiff and Aggrieved Employees from taking thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work and/or from taking a second thirty (30) minute uninterrupted meal break no later than their tenth hour of work for shifts lasting more than ten (10) hours. Defendant also failed to maintain accurate records of meal periods taken by Plaintiff and Aggrieved Employees.

17. Throughout the time period involved in this case, Defendant did not adequately inform Plaintiff and Aggrieved Employees of their right to take meal periods under California law. Moreover, Defendant systematically disregarded its own written policies regarding the provision and timing of meal periods for Plaintiff and Aggrieved Employees. Instead, Defendant's actual policy and practice was to schedule Plaintiff and Aggrieved Employees in a way the prohibited them from taking timely and duty-free meal periods, and to require Plaintiff and Aggrieved Employees to work through their meal periods, for which they were not compensated.

18. Throughout the time period involved in this case, Defendant failed to pay Plaintiff and Aggrieved Employees premium wages for meal periods that were missed, late, interrupted, or shortened in violation of California law. Defendant knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive all meal periods or payment of one additional hour of pay at their regular rate of pay when a meal period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendant routinely failed to provide legally compliant meal periods to Plaintiff and Aggrieved Employees, and routinely failed pay one additional hour of pay to Plaintiff and Aggrieved Employees at their regular rate of pay when a meal period was missed, short, late, and/or interrupted.

19. Throughout the time period involved in this case, Defendant implemented policies and practices which prohibited Plaintiff and Aggrieved Employees from taking timely and duty-free rest periods. Defendant regularly failed to provide, authorize, and permit Plaintiff and Aggrieved Employees to take full, uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to authorize, permit,

and provide such rest breaks in the middle of each work period.

20. Throughout the time period involved in this case, Defendant did not adequately inform Plaintiff and Aggrieved Employees of their right to take rest periods under California law. Moreover, Defendant systematically disregarded its own written policies regarding the provision and timing of rest periods for Plaintiff and Aggrieved Employees. Instead, Defendant's actual policy and practice was to schedule Plaintiff and Aggrieved Employees in a way that regularly prohibited them from taking timely and duty free rest periods, and to regularly require Plaintiff and Aggrieved Employees to work through their rest periods.

21. Throughout the time period involved in this case, Defendant failed to pay Plaintiff and Aggrieved Employees premium wages for rest periods that were missed, late, interrupted, or shortened in violation of California law. Defendant knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendant routinely failed to authorize and permit Plaintiff and Aggrieved Employees to take duty-free rest periods, and failed to pay one additional hour of pay to Plaintiff and Aggrieved Employees at their regular rate of pay when a rest period was missed, short, late and/or interrupted.

22. Throughout the time period involved in this case, Defendant regularly required Plaintiff and Aggrieved Employees to perform work off-the-clock. Although Defendant prohibited overtime, Defendant still regularly required Plaintiff and Aggrieved Employees complete all of their assigned duties. To do so, Plaintiff and Aggrieved Employees were regularly required to perform work off-the-clock for which they were not compensated.

23. Throughout the time period involved in this case, Defendant employed a time rounding policy that was not neutral and designed to consistently round time in Defendant's favor, ensuring that Plaintiff and the Aggrieved Employees were oftentimes not paid for all time worked.

24. Throughout the time period involved in this case, Defendant implemented policies that prohibited Plaintiff and the Aggrieved Employees from accurately recording the actual time worked, resulting in a failure to pay Plaintiff and the Aggrieved Employees all wages owed.

1 25. Throughout the time period involved in this case, Plaintiff and Aggrieved
2 Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

3 26. Throughout the time period involved in this case, Defendant regularly failed to
4 pay overtime compensation to Plaintiff and Aggrieved Employees when they worked in excess
5 of eight (8) hours in a single work day and/or forty (40) hours in a single work week, or in excess
6 of twelve (12) hours in a single work day and/or eighty (80) hours in a single work week.
7 Defendant knew or should have known that Plaintiff and Aggrieved Employees were entitled to
8 receive certain wages for overtime or double overtime compensation and that they were not
9 receiving wages for overtime or double overtime compensation.

10 27. Throughout the time period involved in this case, Defendant failed to pay overtime
11 to Plaintiff and the Aggrieved Employees for all overtime hours worked based on regular rates of
12 pay correctly calculated to include all applicable remuneration.

13 28. Throughout the time period involved in this case, Defendant regularly failed to
14 pay Plaintiff and Aggrieved Employees at least minimum wages for all hours worked. Defendant
15 knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive at
16 least minimum wages for all hours worked and that they were not receiving at least minimum
17 wages for all hours worked. Defendant's failure to pay minimum wages included, *inter alia*,
18 failing to pay Plaintiff and Aggrieved Employees at the required minimum wage pursuant to
19 California law, and requiring Plaintiff and Aggrieved Employees to perform work off the clock.

20 29. Throughout the time period involved in this case, Defendant regularly failed to
21 pay Plaintiff and the Aggrieved Employees at least minimum wages for all hours worked.
22 Defendant knew or should have known that Plaintiff and the Aggrieved Employees were entitled
23 to receive at least minimum wages for all hours worked and that they were not receiving at least
24 minimum wages for all hours worked. Defendant's failure to pay minimum wages included, *inter*
25 *alia*, failing to pay Plaintiff and the Aggrieved Employees at the required minimum wage pursuant
26 to California law, requiring Plaintiff and the Aggrieved Employees to perform work off the clock,
27 implementing time rounding policies that resulted in the systematic underpayment of wages to
28 Plaintiff and the Aggrieved Employees.

1 30. Throughout the time period involved in this case, Defendant regularly failed to
2 pay Plaintiff and the Aggrieved Employees all wages owed to them upon discharge or resignation.
3 Defendant knew or should have known that Plaintiff and the Aggrieved Employees were entitled
4 to receive all wages owed to them upon termination within the time permissible under California
5 Labor Code section 202. Plaintiff and the Aggrieved Employees did not receive payment of all
6 final wages owed to them upon discharge or resignation, including overtime compensation and
7 minimum wages within any time permissible under California Labor Code section 202.

8 31. Throughout the time period involved in this case, Defendant regularly failed to
9 pay Plaintiff and Aggrieved Employees all wages within any time permissible under California
10 law, including, *inter alia*, California Labor Code section 204. Defendant knew or should have
11 known that Plaintiff and Aggrieved Employees were entitled to receive all wages owed to them
12 during their employment. Plaintiff and Aggrieved Employees did not receive payment of all
13 wages, including overtime compensation, minimum wages, and meal and rest period premiums,
14 within any time permissible under California Labor Code section 204.

15 32. Throughout the time period involved in this case, Defendant regularly failed to
16 provide complete or accurate wage statements to Plaintiff and Aggrieved Employees. Defendant
17 knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive
18 complete and accurate wage statements in accordance with California law, but, in fact, they did
19 not receive complete and accurate wage statements from Defendant. The deficiencies included,
20 *inter alia*, the failure to include the total number of hours worked, the actual gross wages earned.

21 33. Throughout the time period involved in this case, Defendant regularly failed to
22 keep complete or accurate payroll records for Plaintiff and Aggrieved Employees. Defendant
23 knew or should have known that Defendant was required keep complete and accurate payroll
24 records for Plaintiff and Aggrieved Employees in accordance with California law, but, in fact, did
25 not keep complete and accurate payroll records.

26 34. Throughout the time period involved in this case, Defendant regularly failed to
27 maintain accurate records relating to Plaintiff's and the Aggrieved Employees' work periods,
28 meal periods, total daily hours, hours per pay period, and applicable pay rates.

35. Throughout the time period involved in this case, Defendant regularly failed to pay Plaintiff and Aggrieved Employees for vested but unused vacation time. Defendant knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive all wages owed to them upon termination, including vested and unused vacation time. Plaintiff and Aggrieved Employees did not receive payment of all final wages owed to them upon discharge or resignation, including vested and unused vacation time.

36. Throughout the time period involved in this case, Defendant knew or should have known that it had a duty to compensate Plaintiff and Aggrieved Employees pursuant to California law. Defendant had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and Aggrieved Employees that they paid all wages owed to them, all in order to increase Defendant's profits.

37. On or about January 29, 2025, Plaintiff notified Defendant via certified mail and filed an online PAGA claim notice with the California Labor and Workforce Development Agency (“LWDA”) identifying Defendant’s violations of the California Labor Code identified in this Complaint and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code section 2698 *et seq.* in accord with Cal. Lab. Code section 2699.3. As of the filing of this Complaint, the LWDA has not responded to Plaintiff’s PAGA claim notice.

FIRST CAUSE OF ACTION

(Violation of California Labor Code § 2699, Et Seq.)

(Against All Defendants)

38. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

39. Plaintiff brings her first and only cause of action as a representative action on behalf of similarly Aggrieved Employees in the capacity as a private attorney general pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq. (“PAGA”).

40. PAGA specifically provides for a private right of action to recover civil penalties for violations of the Labor Code as follows: “Notwithstanding any other provision of law, any

1 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
2 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
3 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through
4 a civil action brought by an aggrieved employee on behalf of himself or herself and other current
5 or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code §
6 2699(a).

7 41. Plaintiff was employed by Defendant and the Labor Code violations alleged above
8 were committed against her during her time of employment. Plaintiff and the other non-exempt
9 employees of Defendant are therefore “aggrieved employees” as defined by California Labor Code
10 section 2699(c) in that they are all current or former employees of Defendant, and one or more of
11 the alleged violations were committed against them.

12 42. As set forth in detail above, during all times relevant to this Action, Defendant
13 has routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor
14 Codes by:

- 15 a. Failing to pay Plaintiff and the Aggrieved Employees all earned minimum wage
16 compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*
- 17 b. Failing to pay Plaintiff and the Aggrieved Employees all earned overtime
18 compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*
- 19 c. Failing to provide legally required meal periods to Plaintiff and the Aggrieved
20 Employees, and failing to pay Plaintiff and the Aggrieved Employees an additional
21 hour of premium pay for meal period violations in violation of Labor Code §§
22 226.7 and 512.
- 23 d. Failing to provide authorize and permit Plaintiff and the Aggrieved Employees to
24 take duty-free rest periods, and failing to pay Plaintiff and the Aggrieved
25 Employees an additional hour of premium pay for rest period violations in
26 violation of Labor Code §§ 226.7 and 512.
- 27 e. Failing to timely pay Plaintiff and the Aggrieved Employees all wages at end of
28 their employment in violation of Labor Code § 203.

- 1 f. Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed
2 during employment in violation of Labor Code § 204.
- 3 g. Failing to furnish Plaintiff and the Aggrieved Employees with complete, accurate,
4 itemized wage statements in violation of Labor Code § 226.
- 5 h. Failing to maintain accurate records relating to Plaintiff and the Aggrieved
6 Employees' work periods, meal periods, total daily hours, hours per pay period,
7 total wages and compensation, and applicable pay rates in violation of Labor Code
8 § 1174(d) and the applicable IWC Wage Order.
- 9 i. Failing to pay Plaintiff and the Aggrieved Employees for all vested but unused
10 vacation time in violation of Labor Code § 227.3.

11 43. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff, on behalf
12 of the Aggrieved Employees and the State of California, requests and is entitled to recover
13 penalties against Defendant for the Labor Code violations described above, including but not
14 limited to penalties under California Code of Regulations Title sections 11040 and 11160,
15 penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3, 1174.5, and
16 1197.1, and any and all additional penalties and sums as provided by the California Labor Code
17 and/or other statutes. The exact amount of the applicable penalties, in all, is in an amount to be
18 shown according to proof at trial.

19 44. Plaintiff has exhausted her administrative remedies pursuant to Labor Code §
20 2699.3. On January 29, 2025 Plaintiff, through her counsel of record, by online filing with the
21 Labor and Workforce Development Agency ("LWDA") and by certified mail to the Defendant,
22 notified Defendant and the LWDA of the specific provisions of the Labor Code and IWC Wage
23 Orders that Defendant violated, including the facts and theories to support the violations, and of
24 Plaintiff's intent to bring a claim for civil penalties under PAGA. Plaintiff also paid the filing fee
25 required under Labor Code § 2699.3. As of the filing of this Complaint, more than 65 days have
26 elapsed since the mailing of Plaintiff's January 29, 2025 notice, and the Labor and Workforce
27 Development Agency has not indicated that it intends to investigate the violations discussed in the
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1 notice. Accordingly, Plaintiff may commence a civil action to recover penalties for herself and
2 other Aggrieved Employees pursuant to Labor Code § 2699.3.

3 45. Plaintiff was compelled to retain the services of counsel to file this court action to
4 protect his interests and the Aggrieved Employees, and to assess and collect the civil penalties
5 owed by Defendant. Plaintiff therefore seeks an award of reasonable attorney's fees and costs
6 pursuant to Labor Code § 2699(g)(1), and any other applicable statute.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff, on behalf of all other aggrieved employees, and as a private
9 attorney general, prays for relief and judgment against Defendant, jointly and severally, as
10 follows:

11 **As to the First Cause of Action**

12 1. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor
13 Code;

14 2. For the imposition of civil penalties pursuant to California Labor Code §§ 2699,
15 210, 558, 226, 226.3, 1174.5, 1197.1 and all other penalties allowed by the California Labor Code
16 and/or other applicable statutes; and

17 3. For such other relief as the Court deems just and proper

18 Dated: April 7, 2025

PROTECTION LAW GROUP, LLP

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20
21 By: 

22 Carlos Jimenez
23 Brendan Burton
24 Stephanie Papayanis
25 *Attorneys for Plaintiff*
26 REBECCA SIMMONS-BOURGEOIS
27 As Private Attorney General
28