

MAYALL HURLEY P.C.
ROBERT J. WASSERMANN (SBN: 258538)
rwassermann@mayallaw.com
JENNY D. BAYSINGER (SBN: 251014)
jbaysinger@mayallaw.com
VLADIMIR J. KOZINA (SBN: 284645)
vjkozina@mayallaw.com
112 S Church St.
Lodi, CA 95240
Telephone: (209) 477-3833
Website: www.mayallaw.com

Attorneys for Plaintiff Carmen Lucci

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

6/24/2025 11:19:58 AM

Clerk of the Superior Court
By V. Navarro ,Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

CARMEN LUCCI,

Plaintiff,

vs.

MMT CRAFT, LLC, a limited liability
corporation; MODERN TIMES DRINKS,
INC., a corporation; AUMAKUA HOLDINGS,
INC., a corporation; CRAFT 'OHANA, Inc., a
corporation, and DOES 1-100, inclusive,

Defendants.

Case No.: 25CU012931

NI

FIRST AMENDED CLASS ACTION
COMPLAINT

1. FAILURE TO PAY MINIMUM WAGE
2. FAILURE TO PAY OVERTIME
3. FAILURE TO PROVIDE MEAL BREAKS
4. FAILURE TO PROVIDE REST BREAKS
5. FAILURE TO PAY SICK PAY
6. FAILURE TO PAY ALL WAGES DUE
AND OWING AT END OF
EMPLOYMENT
7. FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS
8. FAILURE TO REIMBURSE BUSINESS
EXPENSES
9. UNLAWFUL BUSINESS PRACTICES
10. LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (PAGA)

Plaintiff Carmen Lucci brings this class and representative action against MMT Craft, LLC,
Modern Times Drinks, Inc., Aumakua Holdings, Inc., Craft 'Ohana, Inc. and Does 1-100 for violations
of the California Labor Code and the Business and Professions Code.

///

///

PARTIES

1. Carmen Lucci (“Plaintiff”) is and at all times relevant herein was employed in San Diego County, California, and was an “employee” as defined by the California Labor Code (“Labor Code”) and the applicable California Industrial Wage Commission (“IWC”) Order(s).

2. MMT Craft, LLC (“MMT”) is a corporation organized and existing under the laws of the state of Delaware which does business in California and throughout the United States. At all times relevant herein, MMT has been an “employer” as defined by the Labor Code and the applicable IWC Order(s).

3. Modern Times Drinks, Inc. (“MTD”) is a corporation organized and existing under the laws of the state of California which does business in California and throughout the United States. At all times relevant herein, MTD has been an “employer” as defined by the Labor Code and the applicable IWC Order(s).

4. Aumakua Holdings, Inc. (“AH”) is a corporation organized and existing under the laws of the state of Delaware which does business in California and throughout the United States. At all times relevant herein, AH has been an “employer” as defined by the Labor Code and the applicable IWC Order(s).

5. Craft ‘Ohana, Inc. (“CA”) is a corporation organized and existing under the laws of the state of Delaware which does business in California and throughout the United States. At all times relevant herein, CA has been an “employer” as defined by the Labor Code and the applicable IWC Order(s).

6. MMT, MTD, AH, CA, and Does 1-100 are collectively referred to as Defendants.

7. Plaintiff is informed and believes, and on that basis alleges, that each of the Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff’s injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

8. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants was acting as the agent, servant, employee, partner and/or joint venturer

1 of and was acting in concert with each of the remaining Defendants in doing the things herein alleged,
2 while at all times acting within the course and scope of such agency, service, employment partnership,
3 joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting
4 both individually and within the course and scope of such agency and/or employment, with the
5 knowledge and/or consent of the remaining Defendants.

6 **JURISDICTION AND VENUE**

7 9. This Court is the proper Court, and this action is properly filed in the Superior Court of
8 California for the County of San Diego because Defendants conduct business in this County, Plaintiff
9 has performed work for Defendants in this County, and the violations committed by Defendants
10 against Plaintiff occurred in this County. Plaintiff hereby demands a jury trial.

11 **GENERAL ALLEGATIONS**

12 10. Defendants operate breweries, tasting rooms and restaurants in San Deigo, California.

13 11. Plaintiff was hired by MTD in or about August 2022. At that time, he received two
14 different Labor Code 2810.5 notices stating that his employers were CA doing business as “Modern
15 Times Beer” and Modern Times Drinks, Inc. doing business as “Modern Times Beer.” In or about
16 May 2023, the wage statements furnished to Plaintiff began to list his employer as MMT. The last
17 wage statement furnished to Plaintiff in November 2024 listed AH as his employer.

18 12. At all times throughout his employment with Defendants, Plaintiff was an hourly, non-
19 exempt employee who was entitled to be paid for all hours worked, overtime as appropriate, and to
20 receive meal and rest breaks pursuant to California law.

21 13. During the relevant time period, Plaintiff and Defendants’ other non-exempt employees
22 were often required to work off-the-clock, including during meal periods. This resulted in them being
23 denied minimum wage and overtime.

24 14. Additionally, Plaintiff and Defendants’ other non-exempt employees’ time was often
25 modified to Employer’s benefit, including but not limited to Defendants’ modifying time records to
26 indicate a meal break was taken when Plaintiff and other non-exempt employees had actually been
27 required to work through said break. Accordingly, Plaintiff and Defendants’ other non-exempt
28 employees were often shorted minimum wage and overtime.

1 15. Plaintiff and Defendants' other non-exempt employees are eligible for and at times
2 receive non-discretionary bonuses, commissions, and other items of compensation. Notwithstanding
3 the foregoing, Defendants failed to properly calculate and pay the overtime wages owed to Plaintiff
4 and Defendants' other non-exempt employees. Specifically, pursuant to its uniform policy, practice
5 and procedure, Defendants a) failed to include commissions, non-discretionary bonuses and other
6 items of compensation when determining Plaintiff and Defendants' other non-exempt employees'
7 "regular rate of pay" for purposes of overtime or b) miscalculated Plaintiff and its other non-exempt
8 employees' "regular rate of pay" for purposes of overtime.

9 16. Plaintiff and Defendants' other non-exempt employees were also not consistently
10 authorized or permitted to take meal and rest breaks as required by California law.

11 17. Defendants regularly required Plaintiff and Defendants' other non-exempt employees to
12 work through meal and rest breaks due to understaffing and work demands.

13 18. On the occasions that Plaintiff and Defendants' other non-exempt employees were able
14 to take their meal breaks, they routinely occurred after 5 hours of work.

15 19. Further, Defendants frequently failed to relieve Plaintiff and its other non-exempt
16 employees of employer control during their meal and rest breaks, and Plaintiff and other non-exempt
17 employees were prohibited from leaving the premises during meal and rest breaks.

18 20. When Plaintiff and Defendants' other non-exempt employees were not provided
19 compliant meal and rest breaks, Defendants routinely did not pay premiums as required by California
20 law. If Defendants did pay meal and rest period premiums to Plaintiff and its other non-exempt
21 employees, it thereby acknowledged it had deprived them of the required meal and rest periods. When
22 premiums were paid, they were paid at the employee's base rate of pay rather than his or her regular
23 rate of pay. Finally, Plaintiff and Defendants' other non-exempt employees' time was often modified
24 to Employer's benefit.

25 21. Plaintiff and Defendants' other non-exempt employees were also entitled to sick pay
26 pursuant to California Labor Code section 245, et seq. Although Labor Code section 248.5,
27 subdivision (l)(1) mandates that paid sick leave for non-exempt employees be "calculated in the same
28 manner as the regular rate of pay for the workweek in which the employee uses paid sick time",

1 pursuant to its uniform policy, practice and procedure, Defendants failed to include commissions, non-
2 discretionary bonuses and other items of compensation when determining Plaintiff and its other non-
3 exempt employees' regular rate of pay for purposes of sick pay. As such, Defendants did not properly
4 "provide" its California non-exempt employees with sick pay in violation of Labor Code section 233.

5 22. Because of the violations set forth above, the wage statements furnished to Plaintiff and
6 Defendants' other non-exempt employees violated Labor Code section 226(a) insofar as they failed to:

- 7 a. Accurately show the gross wages earned in violation of section 226(a)(1);
- 8 b. Accurately show the total number of hours worked by the employee in violation of
9 section 226(a)(2);
- 10 c. Accurately show the net wages earned in violation of section 226(a)(5); and
- 11 d. Accurately show all applicable hourly rates in effect during the pay period and the
12 corresponding number of hours worked at each hourly rate in violation of section
13 226(a)(9).

14 23. In addition to and independent of the foregoing, the wage statements furnished to
15 Plaintiff failed to accurately state the name and address of the legal entity that was the employer in
16 violation of Labor Code section 226(a)(8), as none of the wage statements furnished to Plaintiff
17 identified Craft 'Ohana as the employer though identified as same in at least one Labor Code section
18 2810.5 notice furnished to Plaintiff.

19 24. Because Plaintiff and Defendants' other non-exempt employees were not properly
20 compensated for all of their overtime, meal / rest breaks, and sick pay, they are not timely
21 compensated for the same during each pay period and at the end of their employment in violation of
22 Labor Code Sections 201-204 and 210.

23 25. Plaintiff and Defendants' other non-exempt employees were also required to incur
24 expenses in the performance of their jobs for which they were not reimbursed in violation of Labor
25 Code section 2802. This included, but was not limited to, use of their personal cell phones on and off
26 the job to communicate with Employer and to obtain shift schedules. However, Defendant has not
27 reimbursed Plaintiff or its other non-exempt employees for these expenditures, including for use of
28 their personal cellular phones.

1 26. From at least four years prior to the filing of this action, Defendants have adopted and
2 employed unfair business practices. These unfair business practices include, but are not limited to,
3 failing to properly pay all minimum and overtime wages due, failing to provide compliant meal and
4 rest breaks and the premiums associated with same, failing to pay sick time at the legally-required rate
5 of pay, and failing to reimburse employees for all business expresses.

6 **CLASS ACTION ALLEGATIONS**

7 27. Plaintiff seeks to maintain this action as a class action as to the First through Ninth
8 Causes of Action. Plaintiff brings this action, on behalf of himself and all others similarly situated, as
9 a class action pursuant to Code of Civil Procedure 382. The putative classes which Plaintiff seeks to
10 represent consist of the following:

- 11 a. All current and former non-exempt employees who worked for Defendants at any
12 time from four years prior to the filing of this Complaint through the date of trial
13 (the “Non-Exempt Employee Class”);
- 14 b. All current and former non-exempt employees who worked overtime for
15 Defendants at any time from four years prior to the filing of this Complaint, through
16 the date of trial (the “Overtime Class”);
- 17 c. All current and former non-exempt employees who used paid sick leave while
18 employed by Defendants at any time from four years prior to the filing of this
19 Complaint, through the date of trial (the “Sick Pay Class”);
- 20 d. All current and former non-exempt employees who worked one or more shifts of
21 longer than five hours for Defendants from four years prior to the filing of this
22 Complaint through the date of trial (the “Meal Break Class”);
- 23 e. All current and former non-exempt employees who worked one or more shift of
24 longer than three and one-half hours for Defendants from four years prior to the
25 filing of this Complaint through the date of trial (the “Rest Break Class”);
- 26 f. All current and former non-exempt employees who worked for Defendants at any
27 time during from one year prior to the filing of this Complaint through the date of
28 trial (the “Wage Statement Class”); and

1 g. All members of the Non-Exempt Employee Class, Overtime Class, Sick Pay Class,
2 Meal Break Class, and the Rest Break Class, whose employment ended at any time
3 from three years prior to the filing of this Complaint through the date of trial (the
4 “Waiting Time Penalty Class”).

5 28. The Non-Exempt Employee Class, Overtime Class, Sick Pay Class, Meal Break Class,
6 Rest Break Class, Wage Statement Class, and Waiting Time Penalty Class are collectively referred to
7 as the “Class”.

8 29. The class of persons is so numerous that joinder of all members is impracticable, and
9 the disposition of their claims in a class action is a benefit to the parties and to the Court. Plaintiff is
10 informed and believes, and based thereon alleges, that Defendants employ more than 100 employees
11 who satisfy the class definition. Although the exact number and identity of class members is not
12 presently known, they can be identified in Defendants’ records through coordinated discovery
13 pursuant to this class action.

14 30. This action may be maintained as a class because the questions of law and fact which
15 are common to class members clearly predominate over any questions affecting only individual
16 members and because a class action is superior to other available methods for adjudicating the
17 controversy.

18 31. There are numerous common questions of law and fact arising out of Defendants’
19 conduct. This class action focuses on Defendants’: (a) systematic failure to properly pay employees
20 for all hours worked, including overtime, at the legally-required rate; (b) systemic failure to pay sick
21 pay at the legally required rate; (c) systemic failure to authorize and permit meal and rest breaks or to
22 pay the requisite premiums in lieu of providing said breaks; (d) systematic failure to provide accurate
23 itemized wage statements; (e) systematic failure to pay all wages due and owing at the end of
24 employment; and (f) systemic failure to reimburse employees for all reasonably required business
25 expenses.

26 32. Furthermore, common questions of fact and law predominate over any questions
27 affecting only individual members of the class. The predominating common or class-wide questions
28 of law and fact include the following:

- a. Whether Defendants failed to pay all their non-exempt California employees for all hours worked;
- b. Whether Defendants failed to pay their non-exempt California employees for all overtime worked or at the required regular rate of pay;
- c. Whether Defendants failed to pay sick pay to their non-exempt California employees at the regular rate of pay;
- d. Whether Defendants miscalculated their employees' regular rate of pay and thereby underpaid them;
- e. Whether Defendants failed to provide compliant meal and breaks to their non-exempt California employees;
- f. Whether Defendants failed to pay all earned wages to their non-exempt California employees;
- g. Whether Defendants failed to pay premiums to their non-exempt California employees as a result of non-compliant meal and rest breaks;
- h. Whether the Defendants failed to furnish accurate itemized wage statements;
- i. Whether Defendants failed to pay all wages due and owing at end of their non-exempt California employees' employment;
- j. Whether Defendants failed to reimburse their non-exempt California employees' reasonably necessary business expenses, including personal cellular phone use;
- k. Whether the alleged violations constitute unfair business practices;
- l. Whether the Class is entitled to injunctive relief; and
- m. Whether the Class is entitled to unpaid wages, statutory penalties and/or restitutionary relief, and the amount of the same.

33. Plaintiff's claims are typical of the claims of the members of the Class as a whole, all of whom have sustained and/or will sustain damage and injury as a proximate and/or legal result of the alleged violations of Defendants. Plaintiff's claims are typical of those of the Class because Defendants subjected Plaintiff and each member of the Class to the same violations alleged herein.

1 34. The defenses of Defendants, to the extent that such defenses apply, are applicable
2 generally to the whole Class and are not distinguishable as to the proposed class members.

3 35. Plaintiff will fairly and adequately protect the interests of all members of the Class, and
4 has retained attorneys with extensive experience in litigation, including class and representative
5 actions. Plaintiff has no interests that conflict with those of the Class. Plaintiff is able to fairly and
6 adequately protect the interests of all members of the class because it is in his best interest to prosecute
7 the claims alleged herein in order to obtain the full compensation due him and the other class
8 members.

9 36. A class action is superior to any other method available for fairly and efficiently
10 adjudicating the controversy because 1) joinder of individual class members is not practicable, 2)
11 litigating the claims of individual class members would be unnecessarily costly and burdensome and
12 would deter individual claims, 3) litigating the claims of individual class members would create a risk
13 of inconsistent or varying adjudications that would establish incompatible standards of conduct for
14 Defendants, 4) class members still working for Defendants may be fearful of retaliation if they were to
15 bring individual claims, 5) class members would be discouraged from pursuing individual claims
16 because the damages available to them are relatively small, and 6) public policy encourages the use of
17 the class actions to enforce employment laws and protect individuals who, by virtue of their
18 subordinate position, are particularly vulnerable.

19 37. Judicial economy will be served by maintenance of this lawsuit as a class action. To
20 process numerous virtually identical individual cases will significantly increase the expense on the
21 Court, the class members, and Defendants, all while unnecessarily delaying the resolution of this
22 matter. There are no obstacles to effective and efficient management of this lawsuit as a class action
23 by this Court and doing so will provide multiple benefits to the litigating parties including, but not
24 limited to, efficiency, economy, and uniform adjudication with consistent results.

25 38. Notice of a certified class action and any result or resolution of the litigation can be
26 provided to class members by mail, email, publication, or such other methods of notice as deemed
27 appropriate by the Court.

28 ///

FIRST CAUSE OF ACTION
VIOLATION OF CALIFORNIA LABOR CODE § 1128.12 et seq.
(Failure to Pay Minimum Wage)
Against Defendants

39. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

40. California Labor Code section 1182.12 establishes the minimum wage for California employees from July 1, 2014, to present.

41. Labor Code Section 1194 provides, in relevant part:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage ... applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage ... including interest thereon, reasonable attorney's fees, and costs of suit.

42. Labor Code section 1194.2 provides, in relevant part:

In any action under ... Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

43. Labor Code section 1197 provides that the minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lesser wage is unlawful

44. Pursuant to California Labor Code section 1198, the maximum hours of work and standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees and the employment of any employee for longer hours than those fixed by the commission or under conditions of labor prohibited by the order is unlawful.

45. During the relevant time period, and as set forth above, Defendants intentionally and willfully failed to pay Plaintiff and its other non-exempt California employees for every hour worked when said employees were required to perform while clocked out for meal periods.

46. Wherefore, Plaintiff and the other members of the Non-Exempt Employee Class have been injured as set forth above and request relief as hereafter provided.

SECOND CAUSE OF ACTION
VIOLATION OF CALIFORNIA LABOR CODE §§ 510 & 1198
(Failure to Pay Overtime)
Against Defendants

47. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

48. Pursuant to California Labor Code section 510, any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

49. Pursuant to California Labor Code section 1198, the maximum hours of work and standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees and the employment of any employee for longer hours than those fixed by the commission or under conditions of labor prohibited by the order is unlawful.

50. As set forth above, during the relevant time period, Plaintiff and Defendants' other non-exempt California employees regularly worked overtime.

51. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiffs and the other members of the Overtime Class the proper overtime wages due to them.

52. Wherefore, Plaintiff and the other members of the other members of the Overtime Class have been injured as set forth above and request relief as hereafter provided.

///

///

///

///

///

THIRD CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 226.7, 512 and IWC WAGE ORDERS
(Failure to Provide Meal Periods)
Against Defendants

53. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

54. Labor Code § 226.7 requires employers to provide employees meal breaks as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee 1 additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

55. Labor Code § 512(a) and the applicable Wage Order(s) provide that an employer may not employ a person for a work period of more than 5 hours per day without providing that employee a meal period of not less than 30 minutes, except that if the total work period per day is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ a person for a work period of more than 10 hours per day without providing an employee with a second meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than twelve 12 hours, the meal period may be waived by mutual consent of both the employer and the employee, and if the first meal period was not waived.

56. During the relevant time period, Plaintiff and FOWS's other non-exempt California employees were not provided with compliant meal breaks, nor did they receive an additional hour of premium pay for each missed meal break, or premium pay at their regular rate of pay.

57. Wherefore, Plaintiff and the other members of the Meal Break Class have been injured as set forth above and request relief as hereafter provided.

FOURTH CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 226.7, 512 and IWC WAGE ORDERS
(Failure to Provide Rest Periods)
Against Defendants

58. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

59. Labor Code § 226.7 requires employers to provide employees rest periods as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee 1 additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided

60. The applicable Wage Order(s) provides that every "employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof..." The applicable Wage Order further provides that "[i]f an employer fails to provide an employee rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

61. During the relevant time period, Plaintiff and Defendants' other non-exempt California employees were not provided with compliant rest breaks, nor did they receive an additional hour of premium pay for each missed rest break or premium pay at the applicable regular rate of pay.

62. Wherefore, Plaintiff and the other members of the Rest Break Class have been injured as set forth above and request relief as hereafter provided.

///

///

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE SECTIONS 218, 233, 246
(Failure to Pay Sick Time)
Against Defendants

63. Plaintiff hereby realleges and incorporates by reference each and every allegation above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

64. Labor Code section 246(l) requires that employers pay sick time pay to non-exempt employees at that employee's "regular rate of pay."

65. The "regular rate of pay" includes all remuneration for employment paid to the employee and includes, but is not limited to, hourly earnings, salary, piece work earnings, commissions, non-discretionary bonuses, and the value of meals and lodging. See 29 U.S.C. § 207(e); DLSE Enforcement Policies and Interpretations Manual Section 49.

66. During the relevant time period, Defendants failed to include commissions, non-discretionary bonuses and/or other items of compensation when determining the "regular rate of pay" for Plaintiff and their other non-exempt employees for purposes of sick time pay.

67. According to the California Supreme Court, sick pay is a form of wages. *Murphy v. Kenneth Cole Productions* (2007) 40 Cal.4th 1094, 1103.

68. Labor Code section 233 provides that "any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5."

69. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other members of the Sick Pay Class their sick pay at the rate of pay required by law. Accordingly, Plaintiff and the Sick Pay Class did not receive the full amount of paid sick time that they were entitled to receive by law and were therefore denied the right to use sick leave within the meaning of Labor Code sections 233(a) and (c).

1 70. Any employer who violates Labor Code section 233 is liable to employees for the
2 greater of one day's pay or actual damages, reasonable equitable relief, and reasonable attorneys'
3 fees and costs. Labor Code §233(d), (e).

4 71. Further, Labor Code section 218 authorizes a private right of action to recover
5 unpaid wages.

6 72. Wherefore, Plaintiff and the other members of the Sick Pay Class have been injured
7 as set forth above and request relief as hereafter provided.

8 **SIXTH CAUSE OF ACTION**
9 **VIOLATION OF LABOR CODE §§ 201, ET SEQ.**
10 **(Failure to Pay All Wages Due and Owing at End of Employment)**
 Against Defendants

11 73. Plaintiff hereby realleges and incorporates by reference each and every allegation set
12 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
13 allegations of this cause of action.

14 74. California Labor Code section 201 provides that if an employer discharges an
15 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

16 75. California Labor Code section 202 requires an employer to pay an employee all earned
17 wages within 72 hours of the employee quitting his or her employment, or immediately at the time of
18 quitting if the employee has given 72 hours previous notice of his or her intention to quit.

19 76. As set forth above, Plaintiff and the members of the Waiting Time Penalty Class were
20 not timely paid all of their earned but unpaid wages, including minimum wage, overtime, and meal
21 and rest break premiums, when their employment with Defendants ended.

22 77. Wherefore, Plaintiff and the other members of the Waiting Time Penalty Class have
23 been injured as set forth above and request relief as hereafter provided.

24 **SEVENTH CAUSE OF ACTION**
25 **VIOLATION OF LABOR CODE § 226(a)**
26 **(Failure to Furnish Accurate Itemized Wage Statements)**
 Against Defendants

27 78. Plaintiff hereby realleges and incorporates by reference each and every allegation set
28 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
allegations of this cause of action.

1 79. Pursuant to California Labor Code section 226(a) “every employer shall, semimonthly
2 or at the time of each payment of wages, furnish each of his or her employees, either as a detachable
3 part of the check, draft, or voucher paying the employee’s wages, or separately when the wages are
4 paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages
5 earned, (2) total hours worked by the employee [. . .], (3) the number of piece-rate units earned and
6 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net
7 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
8 the employee and only the last four digits of his or her social security number or an employee
9 identification number, (8) the name and address of the legal entity that is the employer [. . .], (9) all
10 applicable hourly rates in effect during the pay period and corresponding number of hours worked at
11 each hourly rate by the employee and, if the employer is a temporary services employer [. . .], the
12 rate of pay and the total hours worked for each temporary services assignment.”

13 80. An employee suffering injury as a result of the knowing and intentional failure by an
14 employer to comply with Labor Code section 226(a) is entitled to recover the greater of all actual
15 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
16 dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the
17 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and
18 reasonable attorney’s fees. Labor Code § 226(e)(1).

19 81. An employee is deemed to suffer injury if the employer fails to provide a wage
20 statement or if the employer fails to provide accurate and complete information as required by any
21 one or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly
22 and easily determine from the wage statement alone, i) the amount of gross/net wages paid to the
23 employee during the pay period or any of the other information required to be provided pursuant to
24 Labor Code section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the
25 employer, iii) the name and address of the employer and iv) the name of the employee and the last
26 four digits of his or her social security number or employee identification number. Labor Code §
27 226(e)(2)(A) and (B)(i)-(iv). “Promptly and easily determine” means a reasonable person would be
28

1 able to readily ascertain the information without reference to other documents or information. Labor
2 Code § 226(e)(2)(C).

3 82. As set forth above, Defendants intentionally and willfully failed to furnish accurate
4 itemized wage statements which complied with Labor Code section 226.

5 83. Wherefore, Plaintiff and the other members of the Wage Statement Class have been
6 injured as set forth above and request relief as hereafter provided.

7 **EIGHTH CAUSE OF ACTION**
8 **VIOLATION OF LABOR CODE SECTION 2802**
9 **(Failure to Reimburse Business Expenses)**

10 84. Plaintiff hereby realleges and incorporates by reference each and every allegation set
11 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
12 allegations of this cause of action.

13 85. Labor Code section 2802 requires employers to indemnify employees for all
14 necessary expenditures or losses incurred in the direct discharge of his or her duties. This includes
15 usage of cellular phones. *Cochran v. Schwan's Home Serv. Inc.* (2014) 228 Cal.App.4th 1137,
16 1144.

17 86. As set forth above, Defendants required Plaintiff and their other non-exempt
18 California employees to incur business expenses, including the use of their personal cellular phones
19 for work purposes, but Defendants, pursuant to Defendants' uniform policy and practice, did not
20 reimburse them at all for these expenses, despite both being aware that they were using their
21 personal cellular phones and requiring their use for work-related communications.

22 87. Wherefore, Plaintiff and the other members of the Non-Exempt Employee Class have
23 been injured as set forth above and request relief as hereafter provided.

24 **NINTH CAUSE OF ACTION**
25 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200 ET SEQ.**
26 **(Unfair Business Practices)**
27 **Against Defendants**

28 88. Plaintiff hereby realleges and incorporates by reference each and every allegation set
forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
allegations of this cause of action.

89. The statutory violations, as alleged above, are unfair business practices within the meaning of the Unfair Competition Law (Business and Professions Code sections 17200 *et seq*), and include, but are not limited to failing to properly pay minimum and overtime wages and failing to provide complaint meal and rest breaks or to pay premiums associated with the same.

90. Wherefore, Plaintiff and the other members of the Class have been damaged as set forth above and request relief as hereafter provided.

TENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 2698 *et seq.*
(LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (PAGA))
Against All Defendants

91. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

92. The Private Attorney General Act (“PAGA”), as set forth at California Labor Code § 2698 et seq., is and at all times relevant herein was applicable to Plaintiff’s employment by Defendants.

93. Pursuant to Labor Code § 2699(a) any provision of the Labor Code which provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) for violations of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures outlined in Labor Code § 2699.3. California Labor Code § 2699(a).

94. Pursuant to PAGA, an “aggrieved employee” is “any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.” Labor Code § 2699(c).

95. Plaintiff was employed by Defendants and the alleged violations were committed against him during his time of employment. Plaintiff is therefore an aggrieved employee as defined by Labor Code § 2699(c). Other current and former employees are also aggrieved employees in that one

1 or more of the alleged violations were also committed against them during their time of employment
2 with Defendants.

3 96. As is outlined herein, Defendants violated the Labor Code as to Plaintiff and
4 Defendant's other employees. Specifically, Defendants violated Labor Code sections 201-204, 210,
5 226, 226.7, 227.3, 233, 245 *et seq.*, 248.5, 510, 512, 1197, and 2802, as well as the applicable IWC
6 Wage Orders.

7 97. Pursuant to Labor Code § 2699(f), the civil penalty recoverable in a PAGA action is
8 that which is provided for by the by the Labor Code. When the Labor Code does not provide a civil
9 penalty, the penalty recoverable shall be \$100 for the initial violation per employee per pay period and
10 \$200 for each subsequent violation per employee per pay period.

11 98. Pursuant to California Labor Code § 2699(g), an aggrieved employee may recover the
12 civil penalty on behalf of himself or herself and other current or former employees against whom one
13 or more of the alleged violations was committed. Furthermore, any employee who prevails in any
14 action shall be entitled to an award of reasonable attorney's fees and costs.

15 99. Pursuant to Labor Code § 2699.3, an aggrieved employee, including Plaintiff, may
16 pursue a civil action arising under PAGA after the following requirements have been met:

- 17 a. The aggrieved employee shall give written notice by certified mail to the LWDA
18 and the employer (hereinafter "Employee's Notice") of the specific provisions of
19 California Labor Code alleged to have been violated, including the facts and
20 theories to support the alleged violations;
- 21 b. The LWDA shall provide notice (hereinafter "LWDA's Notice") to the employer
22 and the aggrieved employee by certified mail that it does not intend to investigate
23 the alleged violation within 60 days of the postmark date of the Employee's Notice.
24 Upon receipt of the LWDA's Notice, or if the LWDA does not provide notice with
25 65 calendar days of the postmark date of the Employee's Notice, the aggrieved
26 employee may commence a civil action pursuant to California Labor Code § 2699
27 to recover civil penalties in addition to any other penalties to which the employee
28 may be entitled.

1 c. For all alleged violations not enumerated in Labor Code § 2699.5, the employer is
2 given thirty-three (33) days to cure and notify the aggrieved employee by certified
3 mail that the violation has been cured. If the violation is not cured, the aggrieved
4 employee may commence a civil action pursuant to California Labor Code § 2699
5 to recover civil penalties in addition to any other penalties to which the employee
6 may be entitled.

7 100. On January 17, 2025, Plaintiff provided written notice by certified mail to Defendants
8 MMT and Craft 'Ohana, and by online filing to the LWDA, of the specific provisions of the Labor
9 Code alleged to have been violated, including the facts and theories to support the alleged violations.
10 Plaintiff also paid the required filing fee.

11 101. On March 10, 2025, Plaintiff filed an amended notice with the LWDA by online filing,
12 and on April 17, 2025, Plaintiff sent written copies of the amended notice by certified mail to
13 Defendants, containing the specific provisions of the Labor Code alleged to have been violated,
14 including the facts and theories to support the alleged violations.

15 102. As of the filing of this amended Complaint, which is more 65 days after April 17, 2025,
16 the LWDA has not responded to Plaintiff's notice or amended notice or otherwise indicated an
17 intention to investigate his claims. Plaintiff has therefore satisfied the administrative prerequisites
18 under Labor Code § 2699.3 to bring a civil action to recover penalties against Defendants, in addition
19 to other remedies, for violations of Labor Code sections 201-204, 210, 226, 226.7, 227.3, 233, 245 *et*
20 *seq.*, 248.5, 510, 512, 1197, and 2802, as well as the applicable IWC Wage Orders.

21 103. As a result of the myriad violations of the Labor Code and applicable IWC Order(s) set
22 forth above, Plaintiff seeks recovery of civil penalties, attorneys' fees and costs pursuant to the PAGA
23 as set forth below.

24 104. Wherefore, Plaintiff and the other aggrieved employees have been damaged as set forth
25 above and request relief as hereafter provided.

26 ///

27 ///

28 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs prays judgment against Defendants as follows:

3 **As to the First through Ninth Causes of Action:**

- 4 1. That this Court certify the Class;
- 5 2. That this Court appoint Plaintiff as representative of the Class;
- 6 3. That this Court appoint Mayall Hurley, P.C. as Class Counsel;
- 7 4. That this Court award actual, compensatory, special, and general damages as well as
- 8 restitutionary relief to Plaintiff and the members of the Class;
- 9 5. That this Court award injunctive relief, including that available under Labor Code
- 10 sections 226(h) and Business and Professions Code Section 17203;
- 11 6. That this Court award penalties and liquidated damages including, but not limited to,
- 12 those available under Labor Code sections 203, 226, 226.7, 512 and 1194.2;
- 13 7. That this Court award statutory attorneys' fees and costs, including those available
- 14 under Labor Code sections 218.5, 226(e)(1), and 1194 as well as Code of Civil
- 15 Procedure section 1021.5;
- 16 8. That this Court award prejudgment and post-judgment interest according to any
- 17 applicable provision of law or as otherwise permitted by law; and
- 18 9. That this Court award such other and further relief as the court deems just and proper.

19 **As to the Tenth Cause of Action:**

- 20 1. For civil penalties, including but not limited to those available under Labor Code §§
- 21 210, 226.3, 558, 1197.1, and 2699(f);
- 22 2. For statutory attorneys' fees and costs, including but not limited to those available
- 23 under Labor Code § 2699(g);
- 24 3. For prejudgment and post-judgment interest according to any applicable provision of
- 25 law or as otherwise permitted by law, including those available under Civil Code §§
- 26 3287(a) and 3289(b), and Labor Code § 218.6; and
- 27 4. For such other and further relief as the court deems just and proper
- 28

DATED: June 24, 2025

MAYALL HURLEY P.C.

By



ROBERT J. WASSERMANN

JENNY D. BAYSINGER

VLADIMIR J. KOZINA

Attorneys for Plaintiff and the Putative Class

PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 112 South Church Street, Lodi, California 95240, that is located in the county where the mailing and/or delivery below took place.

On June 24, 2025, I served the following document:

FIRST AMENDED CLASS ACTION COMPLAINT

addressed to:

Robert K. Carrol
Lynn Fiorentino
ArentFox Schiff LLP
44 Montgomery Street, 38th Floor
San Francisco, CA 94104
Emails: robert.carrol@afslaw.com;
lynn.fiorentino@afslaw.com;
cristina.barring@afslaw.com;
Nadia.Naqvi@afslaw.com

*Attorneys for Defendants MMT Craft, LLC,
Aumakua Holdings, Inc. and Craft 'Ohana, Inc.*

K. Christopher Branch
KC Branch Firm, PC
860 Osos St. #10
San Luis Obispo, CA 93401
Email: kc@kcbranchlaw.com;
sean@kcbranchlaw.com

*Attorneys for Defendants MMT Craft, LLC,
Aumakua Holdings, Inc. and Craft 'Ohana,
Inc.*

☒ **BY EMAIL:** In accordance with Code of Civil Procedure Section 1010.6, on the date specified below, I caused a copy of the document described above to be sent to the person(s) at the e-mail address(es) listed above. My business e-mail address is jzeyen@mayallaw.com.

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

Executed on June 24, 2025, at Lodi, California.


JULIE ZEYEN