

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: N M FOOD, INC., a California corporation,
(AVISO AL DEMANDADO): TACO BROS, INC., a California corporation,
and DOES 1 through 10, inclusive

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
ELECTRONICALLY FILED

10/21/2022

Kern County Superior Court
By Alejandra Velazquez, Deputy

YOU ARE BEING SUED BY PLAINTIFF: HECTOR PEREZ, on behalf of
(LO ESTÁ DEMANDANDO EL DEMANDANTE): himself and all
"aggrieved employees" pursuant to Labor Code § 2698 et seq.

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Kern
1215 Truxtun Avenue
Bakersfield, California 93301

CASE NUMBER:
(Número del Caso)
BCV-22-102741

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Daniel F. Gaines, Esq.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
GAINES & GAINES APLC

4550 East Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362

818-703-8985

DATE:
(Fecha) 10/21/2022

TAMARAH HARBER-PICKENS

Clerk, by
(Secretario)

Alen

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of *(specify)*:

- ☐ on behalf of *(specify)*:

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:

- ☐ by personal delivery on *(date)*:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Daniel F. Gaines, Esq.

SBN: 251488

GAINES & GAINES, APLC

4550 East Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362

TELEPHONE NO.: 818-703-8985

FAX NO. (Optional): 818-703-8984

E-MAIL ADDRESS: daniel@gaineslawfirm.com

ATTORNEY FOR (Name): Plaintiff, Hector Perez

FOR COURT USE ONLY

ELECTRONICALLY FILED

10/17/2022 4:01 PM

Kern County Superior Court

By Alejandra Velazquez, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

STREET ADDRESS: 1215 Truxtun Avenue

MAILING ADDRESS: 1215 Truxtun Avenue

CITY AND ZIP CODE: Bakersfield, 93301

BRANCH NAME: Metro Division

CASE NAME: Perez v. N M Food, Inc., et al.

CIVIL CASE COVER SHEET



Unlimited



Limited

(Amount

(Amount

demanded

demanded is

exceeds \$25,000)

\$25,000 or less)

Complex Case Designation



Counter



Joinder

Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

BCV-22-102741

JUDGE:

DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort



Auto (22)



Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort



Asbestos (04)



Product liability (24)



Medical malpractice (45)



Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort



Business tort/unfair business practice (07)



Civil rights (08)



Defamation (13)



Fraud (16)



Intellectual property (19)



Professional negligence (25)



Other non-PI/PD/WD tort (35)

Employment



Wrongful termination (36)



Other employment (15)

Contract



Breach of contract/warranty (06)



Rule 3.740 collections (09)



Other collections (09)



Insurance coverage (18)



Other contract (37)

Real Property



Eminent domain/Inverse condemnation (14)



Wrongful eviction (33)



Other real property (26)

Unlawful Detainer



Commercial (31)



Residential (32)



Drugs (38)

Judicial Review



Asset forfeiture (05)



Petition re: arbitration award (11)



Writ of mandate (02)



Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400–3.403)

Antitrust/Trade regulation (03)



Construction defect (10)



Mass tort (40)



Securities litigation (28)



Environmental/Toxic tort (30)

Insurance coverage claims arising from the
above listed provisionally complex case
types (41)

Enforcement of Judgment



Enforcement of judgment (20)

Miscellaneous Civil Complaint



RICO (27)



Other complaint (not specified above) (42)

Miscellaneous Civil Petition



Partnership and corporate governance (21)



Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:a. ☐ Large number of separately represented partiesd. ☐ Large number of witnessesb. ☐ Extensive motion practice raising difficult or novel
issues that will be time-consuming to resolvee. ☐ Coordination with related actions pending in one or more
courts in other counties, states, or countries, or in a federal
courtc. ☐ Substantial amount of documentary evidencef. ☐ Substantial postjudgment judicial supervision3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): One (1)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 10/17/22

Daniel F. Gaines, Esq.

(TYPE OR PRINT NAME)

Daniel F. Gaines

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)–Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice–Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach–Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case–Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ–Administrative Mandamus
Writ–Mandamus on Limited Court Case Matter
Writ–Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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Facsimile: (818) 703-8984

Attorneys for Plaintiff Hector Perez, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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

HECTOR PEREZ, on behalf of himself and all
“aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

N M FOOD, INC., a California corporation,
TACO BROS, INC., a California corporation,
and DOES 1 through 10, inclusive,

Defendants.

CASE NO: BCV-22-102741

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, 1174,
1174.5, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3
AND 558**

1 Plaintiff HECTOR PEREZ (“Plaintiff”), on behalf of himself and all “aggrieved employees”
2 pursuant to Labor Code § 2698 *et seq.*, complains of N M FOOD, INC., a California corporation,
3 TACO BROS, INC., a California corporation, and/or any subsidiaries or affiliated companies
4 (hereinafter referred to as “Defendants”), as follows:

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other California employees who currently work or formerly worked for Defendants
9 (“Aggrieved Employees”).

10 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
11 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
12 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
13 consistent policies of:

14 a. Misclassifying its overtime-exempt classified Aggrieved Employees as they
15 fail to perform the requisite job duties and Defendants fail to pay them at least twice the
16 minimum wage, as required by Labor Code §§ 510, 558 and 1194 and IWC Wage Order 5-
17 2001. Plaintiff claims that these Aggrieved Employees fail to qualify for any applicable
18 exemption: they were not paid a salary based on an hourly rate of at least twice the minimum
19 wage; their primary job duties did not consist of managing employees or performing primarily
20 administrative, executive, or professional tasks; and, they did not exercise independent
21 judgment in their job duties. As a result of their misclassification, when Plaintiff and certain
22 other overtime-exempt classified Aggrieved Employees worked in excess of eight (8) hours
23 in a workday or in excess of forty (40) hours in a workweek, they were not paid proper
24 overtime wages of one-and-one-half times the regular rate of pay, nor were they paid twice
25 the regular rate of pay for all hours worked in excess of twelve (12) in a workday. Plaintiff
26 alleges this claim on behalf of Defendants’ overtime-exempt classified Aggrieved Employees,
27 including all managers. These failures to pay all wages due constitute violations of Labor
28 Code §§ 510, 558 and 1194 and IWC Wage Order 5-2001;

1 b. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were
2 denied rest breaks, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 5-
3 2001. Plaintiff and all other exempt-classified and non-exempt Aggrieved Employees were
4 routinely not authorized and unable to take an off-duty, 10-minute rest break for every four
5 (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's
6 pay for each missed rest break. Plaintiff and other Aggrieved Employees were simply denied
7 and not authorized to take their legally entitled rest periods and were never paid premium
8 wages for missed rest periods. This violates Labor Code § 226.7 and IWC Wage Order No. 5-
9 2001 and is alleged on behalf of all Aggrieved Employees;

10 c. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were
11 denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage
12 Order 5-2001. Plaintiff and all other exempt-classified and non-exempt Aggrieved Employees
13 were denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for
14 every shift worked that exceeded five hours in duration, or a second timely, uninterrupted, 30-
15 minute meal period for every shift worked that exceeded ten hours in duration but were not
16 paid premium wages of one hour's pay for each missed first or second meal period.
17 Defendants would also require Plaintiff and Aggrieved Employees to clock out for their meal
18 periods and continue working without compensation, and thus, deprived them of minimum
19 and overtime wages due. This violates Labor Code §§ 226.7, 510, 512, 558, and 1194 and
20 IWC Wage Order 5-2001;

21 d. Failing to retain records in accordance with Labor Code §§ 1174 and 1174.5.
22 Plaintiff requested his employee file and Defendants refused to produce it. This violates Labor
23 Code §§ 1174 and 1174.5;

24 e. Failing to provide Plaintiff and other Aggrieved Employees with wage
25 statements that fully and accurately itemize the requirements set forth in Labor Code §§ 226(a)
26 and 226.3. Plaintiff and other Aggrieved Employees were not paid all wages due, including
27 premium wages for missed and denied rest periods and all minimum, overtime and double-
28 time wages due, as stated above. As such, the wage statements provided by Defendants failed

1 to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3,
2 total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in
3 violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during
4 the pay period and the corresponding number of hours worked, in violation of Labor Code §§
5 226(a)(9) and 226.3; and

6 f. Failing to pay Plaintiff and other Aggrieved Employees all wages due at the
7 separation of his employment based on the time frames required by Labor Code §§ 201 and
8 202. As stated above, Plaintiff and other Aggrieved Employees were not paid all wages due
9 during the course of their employment and, as a result of this failure, they were not timely
10 paid all wages due at the separation of their employment. Furthermore, when Plaintiff was
11 terminated, he was not issued his final wages on the day of his termination—instead, he was
12 issued his final wages seven days later. Plaintiff alleges that Defendants maintain a policy to
13 untimely pay final wages to their former Aggrieved Employees. This violates Labor Code §§
14 201-202 and is alleged on behalf of Plaintiff and certain Aggrieved Employees no longer
15 employed by Defendants.
16

17 3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §
18 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

19 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
20 The Labor Code violations alleged against Defendants herein arose in Kern County, California.

21 II.

22 PARTIES

23 A. Plaintiff

24 5. Plaintiff HECTOR PEREZ was employed by Defendants from November 2021
25 through March 2022 as a misclassified overtime-exempt employee in Kern County, California.

26 B. Defendant

27 6. Defendant N M FOOD, INC. is a California corporation that employed Plaintiff and
28 Aggrieved Employees throughout the State of California, including Kern County, California.

7. Defendant TACO BROS, INC. is a California corporation that employed Plaintiff and Aggrieved Employees throughout the State of California, including Kern County, California.

8. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

9. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

10. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, AND 1194 AND
PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3
AND 558**

11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint as though fully set forth herein.

12. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

13. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, and 1194; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

14. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

15. On June 22, 2022, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of June 22, 2022. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

V.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;
3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and

///

///

1 4. Such other and further relief as this Court may deem just and proper.

2 Dated: October 17, 2022

Respectfully submitted,

3 GAINES & GAINES
4 A Professional Law Corporation

5 By: *Evan S. Gaines*
6 EVAN S. GAINES
7 Attorneys for Plaintiff