

SUMMONS

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

AMERICAN SECURITY PRODUCTS, CO., a California corporation;
and DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

RICARDO VIGIL MONTANO, individually and on behalf of all other
aggrieved employees,

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

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 10 2022

BY *Jordyn Drake* DEPUTY

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 SAN BERNARDINO
247 WEST 3RD STREET
SAN BERNARDINO, CALIFORNIA 92415

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

SCOTT ERNEST WHEELER (SBN 187998)
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711

LAW OFFICE OF SCOTT ERNEST WHEELER
TELEPHONE: (909) 621-4988
FACSIMILE: (909) 621-4622

DATE:

(Fecha) DEC 10 2022

Clerk, by

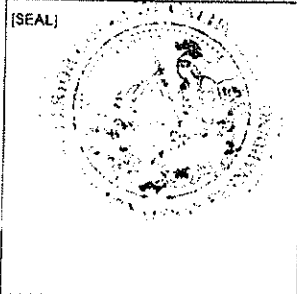
(Secretario)

, 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)).



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 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

- ☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

- ☐ by personal delivery on (date):

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): SCOTT ERNEST WHEELER (SBN 187998) LAW OFFICE OF SCOTT ERNEST WHEELER 250 WEST FIRST STREET, SUITE 216 CLAREMONT, CALIFORNIA 91711 TELEPHONE NO. (909) 621-4988 FAX NO. (Optional): (909) 621-4622 E-MAIL ADDRESS: SEW@SCOTTWHEELERLAWOFFICE.COM ATTORNEY FOR (Name): PLAINTIFF, RICARDO VIGIL MONTANO		FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT SEP 26 2022 <i>Jordyn Drake</i> <i>Jordyn Drake</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 WEST 3RD STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN BERNARDINO, CALIFORNIA 92415 BRANCH NAME: SAN BERNARDINO - CIVIL DIVISION		
CASE NAME: RICARDO VIGIL MONTANO V. AMERICAN SECURITY PRODUCTS, CO.		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less) Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
		CASE NUMBER: CIV SB 2221067 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 parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☒ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **ONE PAGA CAUSE OF ACTION**
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:

Scott Ernest Wheeler

(TYPE OR PRINT NAME)

(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

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i>	Contract Breach of Contract/Warranty (06) Breach of Rental/Lease Contract <i>(not unlawful detainer or wrongful eviction)</i> Contract/Warranty Breach—Seller Plaintiff <i>(not fraud or negligence)</i> 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 <i>(not provisionally complex)</i> (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute	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 <i>(arising from provisionally complex case type listed above)</i> (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability <i>(not asbestos or toxic/environmental)</i> (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	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 <i>(not eminent domain, landlord/tenant, or foreclosure)</i>	Enforcement of Judgment Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment <i>(non-domestic relations)</i> Sister State Judgment Administrative Agency Award <i>(not unpaid taxes)</i> Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case
Non-PI/PD/WD (Other) Tort Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice <i>(not medical or legal)</i> Other Non-PI/PD/WD Tort (35)	Unlawful Detainer Commercial (31) Residential (32) Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i>	Miscellaneous Civil Complaint RICO (27) Other Complaint <i>(not specified above)</i> (42) Declaratory Relief Only Injunctive Relief Only <i>(non-harassment)</i> Mechanics Lien Other Commercial Complaint Case <i>(non-tort/non-complex)</i> Other Civil Complaint <i>(non-tort/non-complex)</i>
Employment Wrongful Termination (36) Other Employment (15)	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	Miscellaneous Civil Petition Partnership and Corporate Governance (21) Other Petition <i>(not specified above)</i> (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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*Attorneys for Plaintiff and on behalf of all
other Aggrieved Employees,***FILED**
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 26 2022

Jordyn Drake
Jordyn Drake

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER

RICARDO VIGIL MONTANO, individually,
and on behalf of all other aggrieved
employees,

Plaintiff,

v.

AMERICAN SECURITY PRODUCTS CO., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: **CIV SB 2221067****COMPLAINT FOR VIOLATION OF THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**[California Labor Code § 2698 *et seq.*]

1 This is a representative action brought by Ricardo Vigil Montano, individually and on behalf
2 of all other aggrieved employees ("Plaintiff"), alleging systematic violations of California wage and
3 hour laws committed by his former employer, American Security Products Co., ("Defendant"). Plaintiff
4 makes the following allegations on information and belief, except as to allegations pertaining to
5 Plaintiff individually, which are based on his personal knowledge.

6 INTRODUCTION

7 1. At all relevant times herein, Defendant has implemented policies and practices that have
8 resulted in systematic violations of California's wage and hour laws. Defendant engages in these
9 unlawful practices to maximize profits.

10 2. Defendant maximizes profits at the expense of its employees by cutting labor costs
11 through understaffing, denying meal and rest breaks, cheating non-exempt employees out of wages and
12 premiums, and related violations of California wage and hour laws.

13 3. For example, Defendant has implemented unlawful policies with respect to meal and
14 rest breaks. Defendant requires its non-exempt employees to routinely work through meal and rest
15 breaks while failing to pay them the legally-required premium pay for these missed and non-complaint
16 meal and rest breaks. In addition, Defendant does not maintain accurate records relating to the hours
17 worked by Plaintiff and the other aggrieved employees.

18 4. Plaintiff seeks civil penalties and other statutorily available relief for himself and other
19 current and former non-exempt employees of Defendant during the applicable limitations period to
20 compensate these workers for the wages Defendant has stolen from them and to protect workers from
21 being subjected to similar unlawful working conditions perpetrated by Defendant.

22 JURISDICTION AND VENUE

23 5. The Superior Court of the State of California has jurisdiction in this matter because
24 Plaintiff is a resident and citizen of the State of California, and Defendant regularly conducts business
25 in the State of California. No federal question is at issue because Plaintiff's claims are based solely on
26 California law.

27 6. Venue is proper in this judicial district and the County of San Bernardino because
28 Plaintiff and other aggrieved employees performed work for Defendant in the County of San

1 Bernardino and many of Defendant's unlawful actions and omissions, as set alleged herein, occurred
2 in the County of San Bernardino. In addition, Defendant's business address is located in Fontana which
3 is located in the County of San Bernardino.

4 **THE PARTIES**

5 7. Plaintiff is a resident and citizen of the State of California and a former employee of
6 Defendant. Plaintiff was employed by Defendant as an electronic assembler, a non-exempt position,
7 during the time period of May 16, 2005 to May 17, 2022.

8 8. Plaintiff, on behalf of himself and all other aggrieved employees, brings this
9 representative action to recover wages and penalties for among other things, Defendant's failure to
10 provide legally compliant meal periods and rest breaks and failure to provide proper compensation for
11 missed and otherwise unlawful meal periods and rest breaks, unpaid and illegally calculated regular
12 and overtime compensation, Defendant's failure to pay all wages due to discharged or quitting non-
13 exempt employees, Defendant's failure to maintain required records, failure to provide accurate
14 itemized wage statements, and failure to comply with the requirements of California Labor Code
15 §2810.5 regarding wage theft and other violations of California wage and hour laws as alleged herein.

16 9. Defendant, which does business as American Security Products Co., manufactures safes
17 with an emphasis on custom manufacturing of home and business safes and related equipment, and at
18 all times relevant herein was, a California corporation authorized to conduct business in the state of
19 California.

20 10. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
21 Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is
22 informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner
23 highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees'
24 injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE
25 defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and
26 capacities of such DOE defendants when ascertained.

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1 them after working longer than five (5) hours, to perform work during their meal periods, or return to
2 work after taking less than a thirty (30) minute meal period.

3 15. Further, Defendant's policy is to not inform Plaintiff and aggrieved employees that they
4 are able to take meal periods before the fifth hour of work. This policy, combined with an unreasonable
5 workload, results in systematic late meal periods taken by Plaintiff and aggrieved employees.

6 16. Defendant also has no policy to provide second meal periods when Plaintiff and
7 aggrieved employees work shifts longer than ten (10) hours. This is in direct contravention of California
8 law. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041 ("We conclude that,
9 absent waiver, section 512 requires a first meal period no later than the end of an employee's fifth hour
10 of work, and a second meal period no later than the end of an employee's 10th hour of work.")

11 17. Despite work conditions that systematically result in missed and non-compliant meal
12 periods, and in order to keep labor costs down, Defendant has implemented a policy and practice of
13 not paying meal period premium payments that are owed and due. This policy is in direct contravention
14 of California law, which requires Defendant to pay one hour at the employee's regular rate of pay for
15 a missed or interrupted meal period.

16 18. In sum, Defendant has violated California Labor Code §§ 226.7, § 11 of the applicable
17 IWC Wage Order, by failing to compensate Plaintiff and aggrieved employees who were not authorized
18 and permitted to take a complete, timely, uninterrupted meal period, one additional hour of
19 compensation at the proper regular rate of pay for each workday that such a meal period was not
20 authorized or permitted. Defendant further violated California Labor Code sections 226.7, 510, 558,
21 1194, 1197, and § 11 of the applicable IWC Wage Order by failing to compensate Plaintiff and Class
22 members for all hours worked during their meal periods.

23 **Failure to Provide Required Rest Breaks**

24 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 1-2001, § 12**

25 **and all other applicable IWC Wage Orders]**

26 19. During the statute of limitations period, Defendant has failed to authorize and permit
27 Plaintiff and other aggrieved employees to take rest breaks as required under California Labor Code §§
28 226.7 and 512, and IWC Wage Order No. 1-2001, § 12 and all other applicable IWC Wage Orders.

20. As with meal periods, Defendant's policies and practices caused Plaintiff and other aggrieved employees to miss or otherwise take non-compliant rest periods by, among other things, giving them unreasonable amounts of work that had to be completed within their shift, and relatedly, engaging in gross understaffing and setting unrealistic project goals, such that rest periods as a practical matter could not be taken. For example, Plaintiff would be so busy with a project that he could not complete within the deadlines set by Defendant without skipping his rest breaks.

21. Defendant further violated California Labor Code § 226.7, IWC Wage Order No. 1-2001, § 11 and all other applicable IWC Wage Orders, by failing to pay Plaintiff and other aggrieved employees who were not provided with a rest break, in accordance with the applicable wage order, one additional hour of compensation at the proper regular rate of pay for each workday that a rest break was not provided.

Failure to Pay Overtime Wages

[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 1-2001, § 3

and all other applicable IWC Wage Orders]

22. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 1-2001, § 3, and all other applicable IWC Wage Orders, Defendant is required to compensate Plaintiff and other aggrieved employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

23. Plaintiff and other aggrieved employees are current and former non-exempt employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage Order No. 1-2001 and all other IWC Wage Orders. During the statute of limitations period, Defendant failed to compensate Plaintiff and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the California Labor Code and IWC Wage Order by, among other methods, unlawful rounding whereby Defendant implemented a rounding policy which favors Defendant, failing to pay overtime at one and one-half (1½) or double the regular rate of pay as provided by California

1 Labor Code §§ 510, 1194 and IWC Wage Order No. 1-2001, § 3 and all other applicable IWC Wage
2 Orders, requiring, permitting or suffering Plaintiff and other aggrieved employees to work off-the-
3 clock, and to work through meal periods and rest breaks, but not compensating them for this time, and
4 other methods to be discovered.

5 24. Defendant has knowingly and willfully refused to perform its obligations to compensate
6 Plaintiff and other aggrieved employees for all wages earned and all hours worked in violation of
7 California Labor Code §§ 510, 1194 and 1198 and IWC Wage Order No. 1-2001, § 3 and all other
8 applicable IWC Wage Orders.

9 **Failure to Pay Minimum Wages**

10 **[Cal. Lab. Code §§ 1194, 1197; § 4 of the IWC Wage Orders]**

11 25. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order,
12 payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
13 period is unlawful.

14 26. During the statute of limitations period, the hourly rates for Plaintiff and other aggrieved
15 employees were precisely at California minimum wage. Based on this common practice, Defendant
16 failed to pay Plaintiff and other aggrieved employees minimum wages for all hours worked by
17 requiring, permitting or suffering Plaintiff and other aggrieved employees to work off the clock,
18 unlawfully rounding of time worked by Plaintiff and the other aggrieved employees which favors
19 Defendant, requiring Plaintiff and the other aggrieved employees to work through meal and rest breaks
20 but not compensating them for this time, and failing to include this time in all hours worked, and other
21 methods to be discovered.

22 27. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4
23 of the applicable IWC Wage Order. As a proximate result of the aforementioned violations, Plaintiff
24 and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore,
25 pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and any other applicable law,
26 Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to
27 them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

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Abstract

1 wages and other compensation to Plaintiff and other aggrieved employees in accordance with
2 California Labor Code §§ 201 and 202. Because Defendant has failed and continues to fail to properly
3 compensate Plaintiff and other aggrieved employees for all hours worked when due, overtime and
4 minimum wages, and compensation for non-compliant meal periods and rest breaks, Defendant has
5 also willfully failed and continues to fail to pay accrued wages and other compensation to Plaintiff and
6 other aggrieved employees in accordance with California Labor Code §§ 201 and 202.

7
8 **Failure to Maintain Required Records**

9 **[Cal. Lab. Code §§ 226(a), 1174(d); IWC Wage Order No. 1-2001, § 7**

10 **and all other applicable IWC Wage Orders]**

11 34. During the statute of limitations period, as part of Defendant's illegal payroll policies
12 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,
13 Defendant knowingly and intentionally failed to maintain records as required under California Labor
14 Code §§ 226(a) and 1174(d) and IWC Wage Order No. 7-2001, § 7 and all applicable IWC Wage
15 Orders, including but not limited to the following records: total daily hours worked by each aggrieved
16 employee; applicable rates of pay; all deductions; meal periods; time records showing when each
17 employee begins and ends each work period; and accurate itemized wage statements. Among other
18 things, Defendant has systematically failed to maintain records of when Plaintiff and aggrieved
19 employees take meal periods (when they are able to take them), and Defendant implemented an illegal
20 rounding policy regarding hours worked by Plaintiff and the other aggrieved employees which favors
21 Defendant. In addition, Defendant had knowledge that it was not providing its non-exempt employees
22 with proper meal and rest periods, but knowingly failed to include in the wage statements one (1) extra
23 hour of compensation for each missed meal and rest period. Defendant also illegally and inaccurately
24 recorded the time in which Plaintiff and other aggrieved employees worked.

25 **Failure to Furnish Accurate Itemized Wage Statements**

26 **[Cal. Lab. Code § 226(a); IWC Wage Order No. 1-2001, § 7**

27 **and all other applicable IWC Wage Orders]**

28 35. During the statute of limitations period, Defendant has routinely failed to provide
Plaintiff and other aggrieved employees with timely and accurate itemized wage statements.

1 Defendant's pay stubs violate California Labor Code § 226 on their face by, among other things, by
2 not including the legal name and address of Defendant and not providing Plaintiff and other aggrieved
3 employees with proper meal periods and rest breaks but intentionally failing to include in their wage
4 statements one (1) additional hour of compensation at their regular rates of pay for each non-compliant
5 meal period or rest break, and Defendant implemented an illegal rounding policy regarding hours
6 worked by Plaintiff and the other aggrieved employees which favors Defendant.

7 36. In order to conceal its wage theft, Defendant knowingly and intentionally failed to
8 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in
9 accordance with Labor Code § 226(a) IWC Wage Order No. 1-2001 § 7 and all other applicable IWC
10 Wage Orders.

11 37. Plaintiff and other aggrieved employees suffered injury as a result of Defendant's failure
12 to provide timely and accurate itemized wage statements because it prevented them from discovering
13 the scope and extent of Defendant's violations of California wage and hour laws, prevented them from
14 being able to determine the gross wages earned, the total hours worked, all deductions made, the net
15 wages earned, all applicable hourly rates in effect during each pay period and the corresponding number
16 of hours worked at each hourly rate, or even the name of the legal entity that employed them.
17 Defendant, also failed to provide the amount of supplemental COVID-19 paid sick leave taken and
18 available on the wage statements, all in violation of Labor Code §§226 and 246.

19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

21 **[Cal. Lab. Code § 2698 *et seq.*]**

22 ***(On Behalf of Plaintiff and Aggrieved Employees against all Defendants)***

23 38. Plaintiff incorporates herein by specific reference, as though fully set forth, the
24 allegations in paragraphs 1 through 37.

25 39. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code §
26 2699(c), and a proper representative to bring a civil action on behalf of himself and other aggrieved
27 employees pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff
28 was employed by Defendant and one or more of the alleged California Labor Code violations was

1 committed against Plaintiff during the statute of limitations period.

2 40. Plaintiff seeks to recover civil penalties through a representative action permitted by
3 PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class
4 certification is not required.

5 41. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
6 penalties from Defendant in a representative action for the violations set forth above, including but not
7 limited to violations of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 558,
8 1174(d), 1194, 1197, and 1198.

9 42. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties
10 for Defendant's violations of California Labor Code provisions for which a civil penalty is specifically
11 provided, including but not limited to, the following:

- 12 a. Pursuant to California Labor Code § 210, for violations of California Labor Code §
13 204, Defendant is subject to a civil penalty in the amount of one hundred dollars
14 (\$100) for the initial violation for each failure to pay each employee, and two
15 hundred dollars (\$200) per employee for violations in subsequent pay periods.
- 16 b. Pursuant to California Labor Code § 226.3, for violations of California Labor
17 Code § 226(a), Defendant is subject to a civil penalty in the amount of two
18 hundred and fifty dollars (\$250) per aggrieved employee for the initial pay period
19 where a violation occurs and one thousand dollars (\$1,000) per aggrieved
20 employee for violations in subsequent pay periods.
- 21 c. Pursuant to California Labor Code § 558(a), "[a]ny employer or other person
22 acting on behalf of an employer who violates, or causes to be violated, a section of
23 this chapter or any provision regulating hours and days of work in any order of the
24 Industrial Welfare Commission," including California Labor Code §§ 510 and
25 512, shall be subject to a civil penalty, in addition to any other penalty provided by
26 law, of fifty dollars (\$50) for initial violations for each underpaid employee for
27 each pay period for which the employee was underpaid and one hundred dollars
28

1 (\$100) for each subsequent violation for each underpaid employee for each pay
2 period for which the employee was underpaid. In addition, Plaintiff seeks civil
3 penalties in the amount sufficient to recover unpaid wages owed to aggrieved
4 employees pursuant to California Labor Code § 558(a).

5 d. Pursuant to California Labor Code § 1174.5, for violations of California Labor
6 Code § 1174(d), Defendant is subject to a civil penalty of five hundred dollars
7 (\$500).

8 43. California Labor Code § 2699(f) provides that for all California Labor Code violations
9 for which a civil penalty is not specifically provided, the following civil penalties are established: one
10 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
11 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

12 44. Plaintiff seeks to recover penalties pursuant to California Labor Code § 2699 for
13 Defendant's violations of the California Labor Code provisions for which a civil penalty is not
14 specifically provided, including but not limited to, California Labor Code §§201, 202, 203, 226.7 and
15 1198. All penalties sought and recovered under this action will be allocated as follows: 75 percent to
16 the state of California and 25 percent to aggrieved employees.

17 45. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
18 Labor Code § 2699(g)(1), California Code of Civil Procedure § 1021.5, and any other applicable
19 laws, rules, or doctrines.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
22 for relief against Defendant as follows:

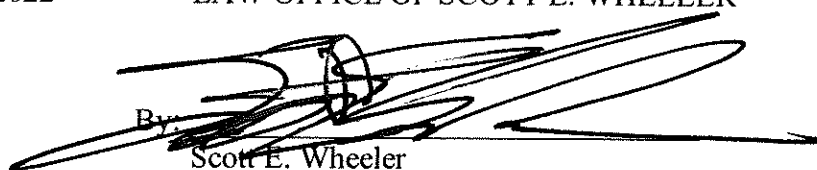
23 1. For civil penalties according to proof, including but not limited to, the amount of any
24 unpaid wages of Plaintiff and the other aggrieved employees and all penalties authorized by California
25 Labor Code §§210, 226.3, 558, 1174.5, and 2699(a) and (f);

26 2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g),
27 California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for
28 attorneys' fees and costs; and

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

DATED: September 22, 2022

LAW OFFICE OF SCOTT E. WHEELER

By: 

Scott E. Wheeler
Justin A. Wheeler

*Attorneys for Plaintiff and on behalf of all
other Aggrieved Employees,*

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

RICARDO VIGIL MONTANO, individually, and on
behalf of all other aggrieved employees,

CASE NO.:

CIV SB 22 21067

vs.
AMERICAN SECURITY PRODUCTS, CO., a California corporation; and
DOES 1 through 50, inclusive,

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the SAN BERNARDINO - CIVIL DIVISION District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

☒ General☐ Collection

Nature of Action

Ground

- | | |
|---|---|
| ☐ 1. Adoption | Petitioner resides within the district. |
| ☐ 2. Conservator | Petitioner or conservatee resides within the district. |
| ☐ 3. Contract | Performance in the district is expressly provided for. |
| ☐ 4. Equity | The cause of action arose within the district. |
| ☐ 5. Eminent Domain | The property is located within the district. |
| ☐ 6. Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 7. Guardianship | Petitioner or ward resides within the district or has property within the district. |
| ☐ 8. Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 9. Mandate | The defendant functions wholly within the district. |
| ☐ 10. Name Change | The petitioner resides within the district. |
| ☐ 11. Personal Injury | The injury occurred within the district. |
| ☐ 12. Personal Property | The property is located within the district. |
| ☐ 13. Probate | Decedent resided or resides within or had property within the district. |
| ☐ 14. Prohibition | The defendant functions wholly within the district. |
| ☐ 15. Review | The defendant functions wholly within the district. |
| ☐ 16. Title to Real Property | The property is located within the district. |
| ☐ 17. Transferred Action | The lower court is located within the district. |
| ☐ 18. Unlawful Detainer | The property is located within the district. |
| ☐ 19. Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| ☒ 20. Other Employment | The cause of action arose within the district. |
| ☐ 21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT. | |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

American Security Products, Co.

11925 Pacific Avenue

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

Fontana

California

ADDRESS

92337

CITY

STATE

ZIP CODE

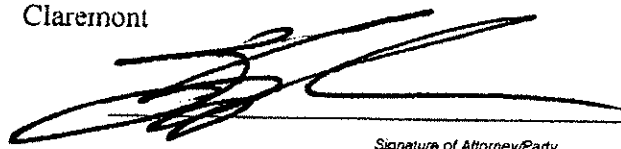
I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed

on

9/22/22

at Claremont

, California.



Signature of Attorney/Party