

**DEC 21 2022**

**BRENDA L. McCORMICK**  
Executive Officer and Clerk  
By: \_\_\_\_\_, Deputy

**D. HERNANDEZ**

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Attorneys for Plaintiff Barbara Pryor

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

BARBARA PRYOR, an individual,

Plaintiff,

v.

ERWIN BREMERMAN, an individual  
doing business as PJ'S SPORTS PUB, and  
DOES 1 through 10, inclusive,

Defendants.

CASE NO: 56-2022-00573419-CU-OE-VTA

**INDIVIDUAL ACTION COMPLAINT  
FOR:**

**1. FAILURE TO PROVIDE REST  
PERIODS OR COMPENSATION IN LIEU  
THEREOF (LABOR CODE § 226.7; IWC  
WAGE ORDER 5-2001)**

**2. FAILURE TO PROVIDE MEAL  
PERIODS OR COMPENSATION IN LIEU  
THEREOF (LABOR CODE §§ 226.7, 512,  
1174, 1174.5, AND 1198; IWC WAGE  
ORDER 5-2001)**

**3. KNOWING AND INTENTIONAL  
FAILURE TO COMPLY WITH  
ITEMIZED EMPLOYEE WAGE  
STATEMENT PROVISIONS (LABOR  
CODE § 226(a), (e))**

**4. FAILURE TO PAY WAGES DUE AT  
SEPARATION OF EMPLOYMENT  
(LABOR CODE §§ 201-203)**

**5. VIOLATION OF BUSINESS AND  
PROFESSIONS CODE § 17200**

**6. PENALTIES PURSUANT TO LABOR  
CODE § 2699(f) FOR VIOLATIONS OF  
LABOR CODE §§ 201-202, 226(a), 226.7,  
512, 1174, 1174.5, AND 1198 AND  
PURSUANT TO LABOR CODE § 2699(a)**

*B. FAN*

**FOR VIOLATIONS OF LABOR CODE §§  
226.3 AND 558**

**DEMAND FOR JURY TRIAL**

Plaintiff BARBARA PRYOR (“Plaintiff”), individually, on behalf of herself, complains of ERWIN BREMERMAN, an individual doing business as PJ’S SPORTS PUB, and/or any subsidiaries or affiliated companies (hereinafter referred to as “Defendants”), as follows:

**I.**

**INTRODUCTION AND FACTUAL BACKGROUND**

1. This is an Individual Action, on behalf of Plaintiff.

2. For at least four (4) years prior to the filing of this action and continuing through the present (the “liability period”) Defendants have had a consistent policy of voluntarily and knowingly failing to provide legally compliant meal and rest periods or compensation in lieu thereof to Plaintiff; failing to provide accurately itemized wage statements to Plaintiff; and failing to timely pay wages upon separation of employment to Plaintiff.

3. Plaintiff brings this action pursuant to Labor Code §§ 201-203, 226(a), 226.7, 512, 1174, 1174.5, and 1198 seeking compensation for all unpaid wages, civil and statutory penalties, injunctive and other equitable relief, and reasonable attorneys’ fees and costs.

4. Plaintiff, on behalf of herself pursuant to Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendants enjoyed from their failure to her pay all wages due.

5. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395 because Defendants employed Plaintiff in Ventura County, California.

**II.**

**PARTIES**

**A. Plaintiff**

6. Plaintiff BARBARA PRYOR was employed by Defendants from approximately 2008 through July 2022 as a non-exempt employee in Ventura County, California.

7. During her work with Defendants, Plaintiff was:

- a. Willfully denied rest periods or compensation in lieu thereof;
- b. Willfully denied meal periods or compensation in lieu thereof;
- c. Willfully denied accurately itemized wage statements; and
- d. Willfully denied the timely payment of wages upon separation of her employment.

**B. Defendants**

8. Defendant ERWIN BREMERMAN is an individual doing business as PJ'S SPORTS PUB. Defendant employed Plaintiff in Ventura County, California.

9. 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, including as a successor to Defendants. 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.

10. 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 Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

11. 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.

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1 **III.**

2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **PLAINTIFF AGAINST ALL DEFENDANTS**

5 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

6 **(LABOR CODE § 226.7; IWC WAGE ORDER 5-2001)**

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

9 13. Plaintiff is entitled to one hour of pay for each day that Defendants failed to properly  
10 provide one or more rest periods as set forth in Labor Code § 226.7.

11 14. Plaintiff was routinely unable to take a 10-minute rest period for every four (4) hours  
12 of work or major fraction thereof, but was not paid premium wages of one hour's pay for each missed  
13 rest period. Plaintiff was simply denied and not authorized to take her legally entitled rest periods and  
14 was never paid premium wages for missed rest periods. This practice violates Labor Code § 226.7  
15 and IWC Wage Order No. 5-2001.

16 15. Pursuant to Labor Code § 226.7, Plaintiff seeks the payment of all rest period  
17 compensation which she is owed for four years preceding the filing of this Action, according to proof.

18 Wherefore, Plaintiff requests relief as described below.

19 **IV.**

20 **SECOND CAUSE OF ACTION**

21 **PLAINTIFF AGAINST ALL DEFENDANTS**

22 **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**

23 **(LABOR CODE §§ 226.7, 512, 1174, 1174.5, AND 1198; IWC WAGE ORDER 5-2001)**

24 16. Plaintiff incorporates paragraphs 1 through 15 of this Complaint as though fully set  
25 forth herein.

26 17. Plaintiff is entitled to one hour of pay for each day that Defendants failed to properly  
27 provide one or more meal periods as set forth in Labor Code §§ 226.7 and 512.

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18. Plaintiff was routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but was not paid premium wages of one hour's pay for each missed first or second meal period. Defendants also failed to maintain meal period records, which show the time that meal periods were taken, if one ever occurred. This violates Labor Code §§ 226.7, 512, 558, 1174, 1174.5, and 1198 and IWC Wage Order 5-2001.

19. Pursuant to Labor Code §§ 226.7 and 512, Plaintiff seeks the payment of all meal period compensation which she is owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff requests relief as described below.

**V.**

### THIRD CAUSE OF ACTION

**PLAINTIFF AGAINST ALL DEFENDANTS**

## KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED

## EMPLOYEE WAGE STATEMENT PROVISIONS

**(LABOR CODE § 226(a), (e))**

20. Plaintiff incorporates paragraphs 1 through 19 of this Complaint as though fully set forth herein.

21. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by

1 the employee. Defendants have knowingly and intentionally failed to comply with Labor Code §  
2 226(a).

3 22. Defendants failed to provide Plaintiff with wage statements that fully and accurately  
4 itemized the requirements set forth in Labor Code §§ 226(a). Plaintiff was not paid all wages due, as  
5 stated above. As such, the wage statements provided by Defendants failed to accurately state all gross  
6 wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code  
7 § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates  
8 in effect during the pay period and the corresponding number of hours worked, in violation of Labor  
9 Code § 226(a)(9).

10 23. As a consequence of Defendants' willful conduct in failing to provide Plaintiff with  
11 accurate itemized wage statements, Plaintiff has been injured because she has not been paid all wages  
12 due and was issued wage statements which do not reflect, and fail to state, all information required  
13 by Labor Code § 226(a). The missing information cannot be discerned at all from the face of the wage  
14 statements themselves. As a result, Plaintiff is entitled to penalties pursuant to Labor Code § 226(e)  
15 to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs  
16 and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate  
17 penalty of \$4,000 per employee, and are entitled to an award of costs and reasonable attorneys' fees  
18 pursuant to Labor Code § 226(h).

19 Wherefore, Plaintiff requests relief as described below.

20 **VI.**

21 **FOURTH CAUSE OF ACTION**

22 **PLAINTIFF AGAINST ALL DEFENDANTS**

23 **FAILURE TO PAY WAGES DUE AT SEPARATION OF EMPLOYMENT**

24 **(LABOR CODE §§ 201-203)**

25 24. Plaintiff incorporates paragraphs 1 through 23 of this Complaint as though fully set  
26 forth herein.

27 25. California Labor Code § 201 and § 202 require Defendants to pay employees all wages  
28 due within 72 hours after resignation of employment or the day of termination of employment. Labor

Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

26. Defendants paid Plaintiff her final wages beyond the time frames set forth in Labor Code §§ 201 and 202, in violation of Labor Code § 203. As stated above, Plaintiff was not paid all wages due during the course of her employment, and as a result of this failure, she was not timely paid all wages due at the separation of her employment. This violates Labor Code §§ 201-203.

27. More than 30 days have passed since Plaintiff left Defendants' employ.

28. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiff is entitled to up to 30 days' wages as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages at separation of employment.

Wherefore, Plaintiff requests relief as described below.

## **VII.**

### **FIFTH CAUSE OF ACTION**

#### **PLAINTIFF AGAINST ALL DEFENDANTS**

#### **UNFAIR COMPETITION PURSUANT TO**

#### **BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

29. Plaintiff incorporates paragraphs 1 through 28 of this Complaint as though fully set forth herein.

30. This is an Individual Action for Unfair Business Practices. Plaintiff brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

31. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

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1           32.     Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business  
2 practices.

3           33.     Wage and hour laws express fundamental public policies. Properly providing  
4 employees with all wages due is a fundamental public policy of this State and of the United States.  
5 Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor  
6 standards, to ensure that employees are not required or permitted to work under substandard and  
7 unlawful conditions, and to protect law-abiding employers and its employees from competitors who  
8 lower their costs by failing to comply with minimum labor standards.

9           34.     Defendants have violated statutes and public policies. Through the conduct alleged  
10 in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have  
11 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair  
12 business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff and  
13 all interested persons of rights, benefits, and privileges guaranteed to all employees under law.

14           35.     Defendants' conduct, as alleged herein, constitutes unfair competition in violation of  
15 §17200 *et seq.* of the Business & Professions Code.

16           36.     Defendants, by engaging in the conduct herein alleged, either knew or in the exercise  
17 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §  
18 17200 *et seq.* of the Business & Professions Code.

19           37.     As a proximate result of the above-mentioned acts of Defendants, Plaintiff has been  
20 damaged in a sum as may be proven.

21           38.     Unless restrained by this Court, Defendants will continue to engage in the unlawful  
22 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court  
23 should make such orders or judgments, including the appointment of a receiver, as may be necessary  
24 to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or  
25 deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited  
26 to, disgorgement of profits which may be necessary to restore Plaintiff the money Defendants have  
27 unlawfully failed to pay.

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VIII.

SIXTH CAUSE OF ACTION

PLAINTIFF AGAINST ALL DEFENDANTS

**PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 201-202, 226(a), 226.7, 512, 1174, 1174.5, AND 1198 AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

39. Plaintiff incorporates paragraphs 1 through 38 of this Complaint as though fully set forth herein.

40. As a result of the acts alleged above, including the Labor Code violations set forth herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.*

41. For each such violation, Plaintiff is entitled to penalties in an amount to be shown at the time of trial 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, 512, 1174, 1174.5, and 1198; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

42. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

43. On August 30, 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 August 30, 2022. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff requests relief as described below.

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**RELIEF REQUESTED**

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff the State of California;
2. For compensatory damages in the amount of one hour of wages for each day on which a meal and/or rest period was not properly provided, pursuant to Labor Code § 226.7;
3. For penalties pursuant to Labor Code § 226(e);
4. For penalties pursuant to Labor Code § 203;
5. An award of prejudgment and post-judgment interest;
6. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*;
7. An award providing for payment of costs of suit pursuant to Labor Code §§ 226(h), 2699(g)(1), and other applicable law;
8. An award of attorneys' fees pursuant to Labor Code §§ 226(h), 2699(g)(1), and other applicable law; and
9. Such other and further relief as this Court may deem just and proper.

Dated: December 20, 2022

Respectfully submitted,

GAINES & GAINES  
A Professional Law Corporation

By: Daniel F. Gaines  
DANIEL F. GAINES  
EVAN S. GAINES  
Attorneys for Plaintiff

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Dated: December 19, 2022

GAINES & GAINES  
A Professional Law Corporation

DANIEL F. GAINES  
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