

Clerk of the Superior Court
By Armando Villasenor, Deputy Clerk

Attorneys for Plaintiff GABRIELLE
AVILLANOZA

COUNTY OF SAN DIEGO

Defendants

- 1. Class Action Claim for Wage and Hour Violation**
- 2. Class Action Claim For Violation Of Labor Code § 226**
- 3. Class Action Claim for Unfair Competition**

1 Plaintiff GABRIELLE AVILLANOZA (“Plaintiff”), on behalf of herself and acting for the interests
2 of other current and former employees (“Plaintiffs”), alleges the following:

3 **NATURE OF THE ACTION**

4 1. Pursuant to Code of Civil Procedure § 382, Plaintiff brings this proposed class action against
5 Defendants for wage and hour abuses in violation of the California Labor Code and the Industrial
6 Welfare Commission Wage Orders (the “IWC Wage Orders”), all of which contribute to
7 Defendants’ deliberate unfair competition.

8 2. Plaintiff, on behalf of herself and all Class Members, brings this action seeking
9 reimbursement, penalties, restitution, injunctive and other equitable relief, reasonable attorneys’
10 fees, and costs.

11 **JURISDICTION AND VENUE**

12 3. Pursuant to Article VI, § 10 of the California Constitution, subject matter jurisdiction is
13 proper in the Superior Court of California, County of San Diego, State of California because
14 Plaintiff alleges claims arising under California law.

15 4. This Court has jurisdiction over the Defendants because each is an association, corporation,
16 business entity, or individual that conducts business in the State of California, County of San Diego,
17 and San Diego County is where Defendants employed Plaintiff.

18 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is proper in the Superior
19 Court of California for the County of San Diego, State of California, because this is where Plaintiff
20 was employed, and Defendants do business in the County of San Diego.

21 **PARTIES**

22 6. Plaintiff is an individual over the age of 18 and a resident of the State of California.

23 7. Defendant Randstad General Partner (US) LLC. (hereafter, “Randstad”) is a Delaware
24 limited liability company doing business in the County of San Diego, California.

25 8. Defendant Taylor Lucero (hereafter, “Lucero”) is an individual residing in the County of
26 San Diego.

27 9. The true names and capacities, whether individual, corporate, associate, or otherwise of the
28 Defendants named herein as DOES 1 through 50, are unknown to Plaintiffs at this time. Plaintiffs

1 therefore sue said Defendants by such fictitious names pursuant to § 474 of the California Code of
2 Civil Procedure. Plaintiffs will seek leave to amend this Complaint to allege the true names and
3 capacities of DOES 1 through 50 when the correct identities are ascertained. Plaintiffs are informed
4 and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to
5 Plaintiffs for the events and actions alleged herein.

6 10. Plaintiffs are informed and believe, and based thereon allege, that at all times relevant herein
7 each Randstad was acting as an agent, joint venture, or as an integrated enterprise and/or alter ego
8 for each of the other Defendants, and each was a co-conspirator with respect to the acts and the
9 wrongful conduct alleged herein, so that each is responsible for the acts of the other in connection
10 with the conspiracy and in proximate connection with the other Defendants.

11 11. Plaintiffs are informed and believe, and based thereon allege, that each Defendant was
12 acting partly within and partly without the scope and course of their employment, and was acting
13 with the knowledge, permission, consent, and ratification of every other Defendant.

14 12. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants
15 was an agent, officer, director, managing general partner, managing member, owner, co-owner,
16 partner, employee, and/or representative of each of the Defendants, and were at all times material
17 hereto, acting within the purpose and scope of such agency, employment, contract and/or
18 representation, and that each of them are jointly and severally liable to Plaintiffs for the acts alleged
19 herein

20 13. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
21 are liable to Plaintiffs under legal theories and doctrines including but not limited to (1) joint
22 employer; (2) integrated enterprise; (3) agency; and/or (4) alter ego, based in part, on the facts set
23 forth below.

24 14. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
25 are part of an integrated enterprise and have acted or currently act as the employer and/or joint
26 employer of Plaintiff, making each of them liable for the violations alleged herein.

CLASS ACTION ALLEGATIONS

15. Plaintiff seeks class certification, pursuant to California Code of Civil Procedure section 382, of a class of Plaintiffs consisting of the following subclasses:

- a. All current and former non-exempt, hourly-paid employees of Randstad in the State of California who participated in unpaid training through the “Randstad University” online training system anytime from four years and 178 days prior to the filing of this action through the date of preliminary approval (the “Unpaid Wage Class”); and
- b. All members of the Unpaid Wage Class who ceased employment with Randstad at any time from three years and 178 days prior to the filing of this action through the date of preliminary approval (the “WT Penalty Class”); and
- c. All current and former non-exempt, hourly-paid employees of Randstad in the State of California who were issued wage statements that did not accurately state the employee’s gross wages, net wages, hours worked, applicable hourly rates, or the inclusive dates of the period for which the employee was paid any time from August 27, 2021 through the date of preliminary approval, (the “Wage Statement Class”);

16. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Randstad records, including payroll records.

17. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have wage-and-hour class actions pending in California state and federal courts.

18. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the Class concerning Defendant’s consistent and uniform policy and practice of: (a) failing to pay for time spent on training, (b) failing to pay all wages on cessation of employment or within 72 hours, as

1 applicable, (c) failing to provide accurate, itemized wage statements in violation of Labor Code
2 section 226.

3 19. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
4 class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical
5 manner as the Class Members. As with other non-exempt employees, Plaintiff attended training that
6 was unpaid, was not paid all wages at termination of employment, and was issued wage statements
7 that failed to accurately state Plaintiff's gross wages, net wages, hours worked, and inclusive dates
8 of the pay period. Therefore, Plaintiff is a member of the Class and has suffered the alleged
9 violations of Labor Code sections 201, 202, 203, 204, 226, and the UCL.

10 20. The California Labor Code upon which Plaintiff bases these claims are broadly
11 remedial in nature. These laws and labor standards serve an important public interest in
12 establishing minimum working conditions and standards in California. These laws and labor
13 standards protect the average working employee from exploitation by employers who may seek to
14 take advantage of superior economic and bargaining power in setting onerous terms and
15 conditions of employment.

16 21. The nature of this action and the format of laws available to Plaintiff and
17 members of the Class identified herein make the class action format a particularly efficient and
18 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
19 file an individual lawsuit, Randstad would necessarily gain an unconscionable
20 advantage since it would be able to exploit and overwhelm the limited resources of each
21 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
22 Member to pursue an individual remedy would also discourage the assertion of lawful claims by
23 employees who would be disinclined to file an action against their former and/or current
24 employer for real and justifiable fear of retaliation and permanent damage to their careers at
25 subsequent places employment.

26 22. The prosecution of separate actions by the individual class members, even if
27 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
28 to individual Class members against Randstad and which would establish potentially

1 incompatible standards of conduct for Randstad, and/or (b) adjudications with respect to
2 individual Class members which would, as a practical matter, be dispositive of the interest of the
3 other Class members not parties to the adjudications or which would substantially impair or
4 impede the ability of the Class members to protect their interests. Further, the claims of the
5 individual members of the Class are not sufficiently large to warrant vigorous individual
6 prosecution considering all of the concomitant costs and expenses.

7 23. Such a pattern, practice and uniform administration of corporate policy regarding
8 illegal employee compensation described herein is unlawful and creates an entitlement to
9 recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
10 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
11 according to the mandate of California Labor Code sections 218.5 and 226, the applicable IWC
12 Wage Orders, and Code of Civil Procedure section 1021.5.

13 24. Proof of a common business practice or factual pattern, which the named Plaintiff
14 experienced and is representative of, will establish the right of each of the members of the
15 Plaintiff Class to recovery on the causes of action alleged herein.

16 25. The Class is commonly entitled to a specific fund with respect to the compensation illegally
17 and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds
18 being improperly withheld by Defendants. This action is brought for the benefit of the entire class
19 and will result in the creation of a common fund.

20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 26. Randstad is in the business of recruiting individuals seeking employment and contracting with
22 clients or customers to supply workers to perform services for the clients or customers.

23 27. In other words, Randstad is a staffing company.

24 28. Randstad requires its employees to undergo training online through a system it refers to as
25 "Randstad University."

26 29. Plaintiff was employed as non-exempt, hourly-paid employee from April 2021
27 through approximately August 27, 2021.

28 30. Plaintiff's employment was fully remote until the end of April 2021. Thereafter, her

1 employment was in office.

2 **FIRST CAUSE OF ACTION**

3 **CLASS ACTION CLAIM FOR WAGE AND HOUR VIOLATION**

4 **Labor Code 201, 202, 203, 204, and 510 et seq.**

5 **(BY PLAINTIFF, THE UNPAID WAGE CLASS, AND THE WT PENALTY CLASS**
6 **AGAINST RANDSTAD AND DOES 1 THROUGH 50)**

7 31. Plaintiff re-alleges and incorporates by reference the preceding and subsequent paragraphs as
8 though fully set forth herein.

9 32. Labor Code Section 204 codifies an employee's right to be paid wages and the time within
10 which wages must be paid.

11 33. Plaintiff and the Unpaid Wage Class were required to undergo training off-the-clock through
12 the Randstad University online training system.

13 34. When Plaintiff and the Unpaid Wage Class participated in training they were subject to the
14 control of Randstad and the training time was compensable.

15 35. Rather than allow employees to participate in training through Randstad University at work,
16 while on the clock, the vast majority of the time Randstad required employees to participate in training
17 through Randstad University on their own time, including on weekends.

18 36. Plaintiff recalls just one occasion on which she was allowed to participate in Randstad
19 University training while on the clock during the workweek.

20 37. Randstad failed to pay Plaintiff and the Unpaid Wage Class for their training time.

21 38. Labor Code Sections 201 and 202 place requirements on an employer to pay wages within a
22 limited period of time upon termination of employment.

23 39. Labor Code Section 203 provides for the imposition of penalties on an employer who fails to
24 pay wages on termination of employment, in violation of Labor Code Sections 201 and 202.

25 40. Randstad failed to pay monies owing for training time to employees upon termination of
26 employment or within 72 hours thereof.

1 41. Such a pattern, practice and uniform administration of corporate policy as described herein is
2 unlawful and creates an entitlement to recovery by Plaintiff and the Unpaid Wage Class, in a civil
3 action, for the unpaid wages owing.

4 42. Additionally, members of the WT Penalty class are entitled to waiting time penalties pursuant
5 to Labor Code Section 203 as their employment ceased without payment of the full amount of wages
6 due in the time specified by Labor Code Sections 201 and 202.

7 **SECOND CAUSE OF ACTION**

8 **CLASS ACTION CLAIM FOR VIOLATION OF LABOR CODE § 226**

9 **(BY PLAINTIFF AND THE WAGE STATEMENT CLASS AGAINST RANDSTAD AND**
10 **DOES 1 THROUGH 50)**

11 43. Plaintiff re-alleges and incorporates by reference the preceding and subsequent paragraphs as
12 though fully set forth herein.

13 44. Randstad failed in its affirmative obligation to provide accurate itemized wage
14 statements to Plaintiff and Wage Statement Class Members, in violation of Labor Code section 226.

15 45. Plaintiff received a number of Wage Statements from Randstad that appear inconsistent with
16 each other and do not accurately set forth the information required by Labor Code Section Labor
17 Code Section 226(a)(1), (2), (5), (6), and (9). For example:

18 a. Plaintiff received a wage statement for August 9, 2021 through August 22, 2021
19 indicating 35 “Hrs/Units” of “Regular Earnings.”

20 b. Plaintiff received a wage statement for August 23, 2021 through August 27, 2021
21 indicating 52.07 “Hrs/Units” of “Regular Earnings.”

22 c. Plaintiff received a wage statement for July 26 23, 2021 through August 27, 2021
23 indicating 29.4 “Hrs/Units” of “Regular Earnings.”

24 46. These statements cannot all be true, as the wage statement for the longer period, which
25 encompasses the two shorter pay periods, shows fewer hours than the either of the wage statements
26 for the two shorter periods contained therein.

27 47. Additionally, the “Advice Date” on the wage statement for pay period ending August 22, 2021
28 is August 20, 2021. Assuming the Advice Date means the date of issuance, either the date of issuance

1 or the inclusive dates of the pay period must be wrong because the wage statement cannot be issued
2 before its inclusive dates.

3 48. Adding to the confusion, the wage statements issued to Plaintiff by Randstad indicate a “Pay
4 Rate” of “\$0.00.” Elsewhere on the same page, the wage statements indicate a “Rate” of “27.41,” but
5 there is no dollar sign (“\$”) next to the 27.41. Along with the other deficiencies in the wage
6 statements, the inclusion of the \$0.00 Pay Rate make the wage statements unclear.

7 49. Unfortunately, Randstad has refused to produce Plaintiff’s personnel file, pay records or time
8 records, making it difficult or impossible for Plaintiff to consult records that would enable her to
9 determine what is actually going on with the wage statements.

10 50. Plaintiff is not able to promptly and easily determine from the wage statement alone the
11 information listed in, *inter alia*, Lab. Code § 226(e)(2)(B)(i).

12 51. Such a pattern, practice and uniform administration of corporate policy as described herein is
13 unlawful and creates an entitlement to recovery by the Plaintiff and the Wage Statement Class in a
14 civil action, for all damages or penalties pursuant to Labor Code section 226, including interest
15 thereon, attorneys’ fees, and costs of suit according to the mandate of California Labor Code section
16 226.

17 52. Pursuant to Lab. Code§ 226(a)(1)-(9), employers must issue wage statements to their
18 employees that accurately include 9 distinct pieces of information. The failure to comply with
19 just one of these 9 requirements triggers an employer's liability for statutory damages pursuant to
20 Lab. Code § 226(e).

21 53. Wage Statement Class Members’ pay statements failed to accurately state: gross wages, net
22 wages, hours worked, inclusive dates, and hourly rates.

23 54. As a result, Wage Statement Class Members were harmed in that they were unable to promptly
24 and easily determine from the wage statement alone the information listed in, *inter alia*, Lab. Code
25 § 226(e)(2)(B)(i).

26 55. Defendants’ failure to comply with the requirements of Lab. Code§ 226(a) was knowing and
27 intentional.

1 56. Pursuant to Lab. Code § 226(e)(1), Class Members are therefore entitled to a statutory penalty
2 of fifty dollars (\$50) for the initial violation , and one hundred dollars (\$100) per pay period for
3 each subsequent violation.

4 **THIRD CAUSE OF ACTION**

5 **CLASS ACTION CLAIM FOR VIOLATION OF BUSINESS AND PROFESSIONS CODE §**
6 **17200, ET SEQ.**

7 **(BY PLAINTIFF AND THE UNPAID WAGE CLASS AGAINST RANDSTAD AND DOES 1**
8 **THROUGH 50)**

9 57. Plaintiff re-alleges and incorporates by reference the preceding and subsequent paragraphs as
10 though fully set forth herein.

11 58. Randstad has engaged and continues to engage in unfair and unlawful business practices in
12 California by failing to pay all wages due for time spent on training, as described more fully in the
13 First Cause of Action.

14 59. Defendant's utilization of such unfair and unlawful business practices constitutes unfair and
15 unlawful competition and provides an unfair advantage over Defendant's competitors.

16 60. Plaintiff seeks, individually and on behalf of other members of the Class similarly
17 situated, full restitution of monies, as necessary and according to proof, to restore any and all
18 monies withheld, acquired and/or converted by the Randstad by means of the unfair practices
19 complained of herein.

20 61. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned
21 Randstad has engaged in unlawful, deceptive and unfair business practices, as proscribed by
22 California Business & Professions Code section 17200, et seq., including those set forth herein above,
23 thereby depriving Plaintiff and other members of the Class of monies due.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs pray for the following relief against Defendants, jointly and severally,
26 and judgment against Defendants as follows:

- 27 1. For an order certifying the proposed Class;
28 2. For an order appointing Plaintiff as the representative of the Class as described herein;

- 1 3. For an order appointing counsel for Plaintiff as class counsel;
- 2 4. Upon the First Cause of Action, on an individual and class action basis, for damages, including
- 3 wages owed, and penalties pursuant to California Labor Code Sections 201, 202, 204, and 510, for
- 4 costs, attorney fees, and interest, and for waiting time penalties pursuant to Labor Code Section
- 5 203;
- 6 5. Upon the Third Cause of Action, on an individual and class action basis, for damages or penalties
- 7 pursuant to California Labor Code section 226, and for costs and attorneys' fees;
- 8 6. Upon the Fourth Cause of Action, on an individual and class action basis, for restitution to
- 9 Plaintiff and other similarly affected members of the general public of all funds unlawfully acquired
- 10 by Defendants by means of any acts or practices declared by this Court to be in violation of
- 11 Business & Professions Code section 17200, et seq., and for costs and attorneys' fees;
- 12 7. On all causes of action, for attorneys' fees and costs as provided by all applicable law, including,
- 13 *inter alia*, California Labor Code sections 218.5 and 226, and Code of Civil Procedure § 1021.5

14 Dated: August 29, 2022

The Law Office of Ian Pancer

15
16 By: Ian Pancer

17 Ian Pancer, Esq.

18 Attorneys for Plaintiff

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