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ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
12/05/2022
By: Kim Anaya, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE

ULISES JIMENEZ, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

DELTA VIEW FARMS LLC, a California
limited liability company; GREGORY O. DIAS
DAIRY-FARMING, INC., a California
corporation; and DOES 1 through 100, Inclusive,
Defendants.

Case No. VCU293548

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 1198);**
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 1198)**
- (4) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (5) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*);**
- (7) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Ulises Jimenez (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint against Delta View
3 Farms LLC, a California limited liability company; Gregory O. Dias Dairy-Farming, Inc., a
4 California corporation; and Does 1 through 100, inclusive (collectively, “Defendants”), and on
5 information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 class and representative action for recovery of unpaid wages and penalties under California
9 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 226, 226.7,
10 510, 512, 516, 558, 1194, 1198, 2698 *et seq*; and Industrial Welfare Commission Wage Order
11 No. 14 (“Wage Order 14”), in addition to seeking declaratory relief and restitution. This class
12 action is brought pursuant to California Code of Civil Procedure section 382. This Court has
13 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
14 controversy exceeds this Court’s jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in Tulare County. Defendants own, maintain offices, transact business, have an agent or
19 agents within Tulare County, and/or otherwise are found within Tulare County, and Defendants
20 are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
24 the filing of this action and within the statute of limitations periods applicable to each cause of
25 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
26 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
27 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
28 204, 226, 226.7, 510, 512, 516, 558, 1194, 1198, 2698 *et seq*; California Business & Professions

Code § 17200, *et seq.* (Unfair Competition), and Wage Order 14, which sets employment standards for employees in agricultural occupations.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do) business as a commercial dairy farm, and that they employed Plaintiff and other similarly situated non-exempt employees within Tulare County and the state of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

7. At all times herein mentioned, each of said Defendants participated in the acts herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each of the acts or omissions alleged herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class Members (as defined in Paragraph 16).

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10. During Plaintiff's employment with Defendants, Defendants failed to pay Plaintiff and other non-exempt employees all overtime pay to which they were entitled, in that Defendants only paid overtime for time worked over 10.0 hours in a workday. Even assuming Defendants were covered by Wage Order 14 (which previously required daily overtime only after 10.0 hours of work), Section 3 of Wage Order 14 has gradually required employers to pay overtime after less than 10.0 hours. Specifically, starting in 2019, employers with 26 or more employees (such as Defendants) covered by Wage Order 14 were required to pay overtime for any work over 9.5 hours in a workday and/or over 55 hours in a workweek; starting in 2020, for any work over 9.0 hours in a workday and/or over 50 hours in a workweek; starting in 2021, for any work over 8.5 hours in a workday and/or over 45 hours in a workweek; and starting in 2022, for any work over 8.0 hours in a workday and/or over 40 hours in a workweek. *See* Wage Order 14, § 3(A)(2). Plaintiff regularly worked over 8 1/2 hours (in 2021) and over 8.0 hours (in 2022) per workday without receiving proper overtime compensation. As a result of Defendants' policy and practice of only paying overtime after 10.0 hours in a workday, Defendants failed to pay Plaintiff and other non-exempt employees all overtime wages due to them.

11. Defendants have also failed to provide Plaintiff and other non-exempt employees with all statutorily mandated meal periods due to Defendants' meal period policies/practices. Specifically, Plaintiff's time records reflect that he was regularly provided a meal period after the end of the fifth hour of work and was not provided a second meal period on shifts over 10.0 hours as required under California law. While Defendants did pay Plaintiff meal period premiums for many of these violations¹, there were other occasions when Plaintiff was not provided a legally

¹ Indeed, the fact that Defendants paid Plaintiff meal period premiums on approximately 80% of his workdays is further evidence that Defendants have maintained a policy and practice of failing to provide legally-compliant meal periods. *See Kirby v. Immoos Fire Protection, Inc.*, 53 Cal.4th 1244, 1256 (2012) (“section 226.7 does not give employers a lawful choice between providing *either* meal and rest breaks *or* an additional hour of pay....an employer’s provision of an additional hour of pay does not excuse a section 226.7 violation.”))

compliant meal period and Defendants failed to pay the meal period premium that was owed. As a result of Defendants' meal period policies/practices, Plaintiff and other non-exempt employees were not provided all legally-compliant meal periods to which they were entitled, and/or were not paid all meal period premiums which they were owed.

12. Defendants have also failed to authorize and permit all required rest periods to Plaintiff and other non-exempt employees due to Defendants' rest period policies/practices, which have failed to authorize and permit a 10-minute rest period for each four hours worked or major fraction thereof. Specifically, Plaintiff and other non-exempt employees were authorized and permitted only one rest period per workday, generally in the morning, and were not authorized and permitted any other rest periods throughout the workday, even though Plaintiff and other non-exempt employees routinely worked over 6.0 hours in a workday (in which case they were entitled to two rest periods) or over 10.0 hours in a workday (in which case they were entitled to three rest periods). Despite failing to authorize and permit all required rest periods to Plaintiff and other non-exempt employees, Defendants have failed to pay the required rest period premiums pursuant to Labor Code § 226.7. Upon information and belief, for at least a portion of the putative class period, Defendants failed to maintain any payroll code or other mechanism to pay rest period premiums when Defendants failed to authorize and permit all required rest periods.

13. As a result of Defendants' failure to pay all overtime wages, as well as Defendants' failure to pay all meal and rest period premium wages owed, Defendants failed to pay all wages to Plaintiff and other formerly employed non-exempt employees at the separation of employment.

14. As a further result of Defendants' failure to pay all overtime wages, as well as Defendants' failure to pay all meal and rest period premium wages owed, Defendants maintained inaccurate payroll records, and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

15. In addition, the final paycheck issued to Plaintiff, which paid him for his final two days of work, January 4-5, 2022, was facially deficient in that it contained the incorrect dates of the pay period. Specifically, Plaintiff's final paycheck indicated that it was for the pay period of December 21, 2021 to January 3, 2022, when in fact it was for time worked on January 4-5, 2022.

1 **CLASS ACTION ALLEGATIONS**

2 16. Class Definitions: Plaintiff bring this action on behalf of himself and the following
3 Classes pursuant to Section 382 of the Code of Civil Procedure:

4 a. The Overtime Class consists of all of the Defendants' current and former non-
5 exempt employees in California who, at any time from January 1, 2019 through the present,
6 were subject to Defendants' overtime pay practices.

7 b. The Meal Period Class consists of all of the Defendants' current and former non-
8 exempt employees in California who worked at least one shift in excess of 5.0 hours
9 without a 30-minute meal period commencing before the end of the fifth hour of work as
10 reflected in their time records, at any time from four years immediately preceding the filing
11 of this action through the present.

12 c. The Rest Period Class consists of all of the Defendants' current and former non-
13 exempt employees in California who worked at least one shift of over 6.0 hours, at any
14 time from four years immediately preceding the filing of this action through the present.

15 d. The Wage Statement Class consists of (i) all members of the Overtime Class, Meal
16 Period Class, and/or Rest Period Class who received a wage statement at any time from
17 one year immediately preceding the filing of this lawsuit through the present; and (ii) all
18 of Defendants' former non-exempt employees who received their final paycheck at any
19 time from one year prior to the filing of this action to the present, and which final paycheck
20 contained the incorrect dates of the pay period.

21 e. The Waiting Time Class consists of all members of the Overtime Class, Meal
22 Period Class, and/or Rest Period Class who are no longer employed by Defendants and
23 who last worked for Defendants at any time from three years immediately preceding the
24 filing of this lawsuit through the present.

25 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be impracticable. The membership of the Classes is unknown to
27 Plaintiff at this time; however, it is estimated that the Classes number greater than 50 individuals
28 per Class. The identity of such membership is readily ascertainable via Defendants' records.

1 **18. Common Questions of Law and Fact Predominate/Well Defined Community**
2 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
3 situated employees, which predominate over questions affecting only individual members
4 including, without limitation to:

- 5 i. Whether Defendants' timekeeping and payroll practices violate the Labor
6 Code by requiring overtime work and not paying the Overtime Class for
7 said work according to California's overtime laws;
- 8 ii. Whether Defendants provided legally compliant meal periods to members
9 of the Meal Period Class;
- 10 iii. Whether Defendants authorized and permitted legally compliant rest
11 periods to members of the Meal Period Class;
- 12 iv. Whether Defendants furnished legally compliant wage statements to
13 members of the Wage Statement Class pursuant to Labor Code § 226; and
- 14 v. Whether Defendants paid all wages due to members of the Waiting Time
15 Class at the time of separation of employment.

16 **19. Predominance of Common Questions:** Common questions of law and fact
17 predominate over questions that affect only individual members of the Classes. The common
18 questions of law set forth above are numerous and substantial and stem from Defendants' policies
19 and/or practices applicable to each individual class member, such as Defendants' timekeeping,
20 overtime, wage statement, meal period, rest period, expense reimbursement, and final wage
21 policies/practices. As such, the common questions predominate over individual questions
22 concerning each individual class member's showing as to his or her eligibility for recovery or as
23 to the amount of his or her damages.

24 **20. Typicality:** Plaintiff's claims are typical of the claims of the Classes because
25 Plaintiff was employed by Defendants as a non-exempt employee in California during the
26 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
27 alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned overtime
28 wages, was subject to Defendants' uniform meal and rest period policies/practices, was furnished

1 with inaccurate wage statements, and was deprived of all final wages upon his separation of
2 employment from Defendants.

3 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
4 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
5 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
6 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class
7 actions in state and federal courts in the past and are committed to vigorously prosecuting this
8 action on behalf of the members of the Classes.

9 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
10 an important public interest in establishing minimum working conditions and standards in
11 California. These laws and labor standards protect the average working employee from
12 exploitation by employers who have the responsibility to follow the laws and who may seek to
13 take advantage of superior economic and bargaining power in setting onerous terms and
14 conditions of employment. The nature of this action and the format of laws available to Plaintiff
15 and the Classes make the class action format an efficient and appropriate procedure to redress the
16 violations alleged herein. If each employee were required to file an individual lawsuit, Defendants
17 would necessarily gain an unfair advantage, as they would be able to exploit and overwhelm the
18 limited resources of each individual plaintiff with their vastly superior financial and legal
19 resources. Moreover, requiring each Class member to pursue an individual remedy would
20 discourage the assertion of lawful claims by employees who would be disinclined to file an action
21 against their former or current employer for real and justifiable fear of retaliation and permanent
22 damages to their careers at subsequent employment. Further, the prosecution of separate actions
23 by individual class members would create a substantial risk of inconsistent or varying verdicts or
24 adjudications with respect to the individual class members against Defendants herein; and which
25 would establish potentially incompatible standards of conduct for Defendants. Further, the claims
26 of the individual members of the Classes are not sufficiently large to warrant vigorous individual
27 prosecution considering all of the concomitant costs and expenses attending thereto. As such, the
28 Classes identified in Paragraph 16 are maintainable under Code Civ. Proc. § 382.

FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
(AGAINST ALL DEFENDANTS)

23. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

24. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

25. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 14. Wage Order 14, § 3 requires that, starting on January 1, 2019, employers with 26 or more employees (such as Defendants) were required to pay overtime compensation for any work over 9.5 hours in a workday and/or over 55 hours in a workweek; starting in 2020, for any work over 9.0 hours in a workday and/or over 50 hours in a workweek; starting in 2021, for any work over 8.5 hours in a workday and/or over 45 hours in a workweek; and starting in 2022, for any work over 8.0 hours in a workday and/or 40 hours in a workweek.

26. As alleged herein, Defendants have failed to pay overtime compensation in compliance with the Labor Code and Wage Order 4, in that Defendants have only paid overtime for time worked over 10.0 hours in a workday.

27. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of Civil Procedure § 1021.5.

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1 **SECOND CAUSE OF ACTION**

2 **MEAL PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 28. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

5 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 failed in their affirmative obligation to provide all their hourly non-exempt employees, including
7 Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with
8 the mandates of the California Labor Code and Wage Order 14, for the reasons set forth in this
9 Complaint.

10 30. As a result, Defendants owe premium compensation for meal period violations,
11 including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 14, Labor
12 Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

13 **THIRD CAUSE OF ACTION**

14 **REST PERIOD VIOLATIONS**

15 **(AGAINST ALL DEFENDANTS)**

16 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

17 32. Labor Code §§ 226.7 and 516, and Wage Order 14, § 12 establish the right of
18 employees to be authorized and permitted a rest period of at least ten (10) minutes for each four
19 (4) hour period worked, or major fraction thereof.

20 33. As alleged herein, Defendants failed to authorize and permit Plaintiff and Rest
21 Period Class members to take their legally entitled rest periods. Defendants also failed to
22 compensate Plaintiff and Rest Period Class members with a rest period premium for each workday
23 on which Defendants failed to authorize and permit rest periods.

24 34. The foregoing violations create an entitlement to recovery by Plaintiff and Rest
25 Period Class members in a civil action for the unpaid amount of rest period premiums owing,
26 including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor
27 Code §§ 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, §
28 1 of the California Constitution.

FOURTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(AGAINST ALL DEFENDANTS)

35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

36. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, all overtime wages earned, all meal and rest period premium wages earned, gross wages earned, net wages earned, and/or the inclusive dates of the pay period, in violation of Labor Code § 226.

37. Defendants' failure to furnish Plaintiff and the Wage Statement Class with complete accurate itemized wage statements resulted in injury, as said failure led to, among other things, the non-payment of overtime wages and meal and rest period premium wages, and deprived them of information necessary to identify the discrepancies in Defendants' reported data.

38. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

FIFTH CAUSE OF ACTION
WAITING TIME PENALTIES
(AGAINST ALL DEFENDANTS)

39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

40. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee, or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

41. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including (but not limited to) unpaid overtime wages, and unpaid meal and rest period premium wages.

42. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

43. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of daily wages up to thirty days from the time the wages were due. Plaintiff and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

44. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

45. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay Plaintiff and the Classes all overtime wages due, failing to provide meal and rest periods or pay meal and rest period premium wages, failing to furnish accurate and complete itemized wage statements, and failing to pay all earned wages at separation of employment.

46. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

1 47. Because Plaintiff is a victim of Defendants’ unfair and/or unlawful conduct alleged
2 herein, Plaintiff for himself, and on behalf of the members of the Classes, seeks full restitution of
3 monies as necessary and according to proof, to restore all monies withheld, acquired, and/or
4 converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

5 48. The acts complained of herein occurred within the four years immediately
6 preceding the filing of this action. Plaintiff was compelled to retain the services of counsel to
7 file this court action to protect his interests and those of the Classes, to obtain restitution and
8 injunctive relief on behalf of Defendants’ current non-exempt employees, and to enforce
9 important rights affecting the public interest. Plaintiff has thereby incurred the financial burden
10 of attorneys’ fees and costs, which he is entitled to recover under Code of Civil Procedure §
11 1021.5

12 **SEVENTH CAUSE OF ACTION**
13 **PRIVATE ATTORNEYS GENERAL ACT**
14 **(AGAINST ALL DEFENDANTS)**

15 49. Plaintiff re-alleges and incorporates by reference all previous paragraphs.
16 Defendants have committed several Labor Code violations against Plaintiff and other aggrieved
17 employees. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*
18 Plaintiff, acting on behalf of himself and other aggrieved employees, brings this representative
19 action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved
20 employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
21 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure
22 to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation
23 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount
24 unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent
25 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
26 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
27 employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00
28 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay period;

and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay all overtime and/or double-time compensation to Plaintiff and other aggrieved employees, in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- b. Failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- c. Failing to authorize and permit all legally required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- e. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203.

50. On or about September 29, 2022, Plaintiff notified Defendants Delta View Farms LLC. and Gregory O. Dias Dairy-Farming, Inc., via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 49 (a)-(e) above. Now that sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

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51. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to recover under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;
7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*;
10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation

pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f);

11. Prejudgment interest on all due and unpaid wages and other damages pursuant to California Labor Code §§ 218.6, 1194(a); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 1194 *et seq.*, 2699(g), Code of Civil Procedure § 1021.5, and all other relevant statutes; and

13. For such other and further relief the Court may deem just and proper.

Date: December 5, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: December 5, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorney for Plaintiff