

Adam Rose (210880)
adam@frontierlawcenter.com
FRONTIER LAW CENTER
23901 Calabasas Rd., #2074
Calabasas, California 91302
Telephone: (818) 914-3433
Facsimile: (818) 914-3433

Attorney for Plaintiff
Emily Villanueva

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Superior Court of California
County of San Joaquin
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Case Management Conference
2023-06-26 8:45AM in 10D

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN JOAQUIN

EMILY VILLANUEVA, on behalf of herself
and all aggrieved employees,

Plaintiff,

v.

FFE TRANSPORTATION, INC.,
and DOES 1 to 100

Defendants.

) Case No. STK-CV-UOE-2022-0011650
)
) COMPLAINT
)
) 1. PAGA PENALTIES
) 2. WORK ENVIRONMENT
) HARASSMENT
) 3. OVERTIME VIOLATION
) 4. MEAL BREAKS VIOLATION
) 5. REST BREAKS VIOLATION
) 6. WAGE STATEMENT PENALTY
) 7. WAITING TIME PENALTY

PRELIMINARY ALLEGATIONS

1. Plaintiff Emily Villanueva is a resident of Sacramento County.
2. Defendant FFE Transportation, Inc. is a corporation that is qualified to do business in California and has a location in San Joaquin County.
3. Plaintiff does not know the true names and capacities of Does 1 to 10 and uses fictitious names. Plaintiff will amend the complaint to insert their true names and capacities pursuant to Code of Civil Procedure section 474 when known.
5. Venue is proper in San Joaquin since Plaintiff worked for Defendants in Stockton.

6. On December 13, 2022 Plaintiff obtained a Right-to-Sue Letter from DFEH. Plaintiff is a member of a protected class based on her gender as a female.

7. On September 26, 2022 Plaintiff sent a PAGA letter by certified mail to FFE Transportation and uploaded the letter to the LWDA website. Since it has been more than 65 days and the LWDA has not responded, Plaintiff may now seek PAGA penalties.

7. Throughout Plaintiff's employment from October 6, 2021 to April 12, 2022, she was harassed by a co-worker, Cameron, who touched her inappropriately and made suggestive comments to Plaintiff; Defendants did not do anything to address this conduct.

8. Defendants operate a storage facility for frozen food, and Plaintiff worked as a stocker.

9. Plaintiff was not paid overtime at the correct regular rate of pay since it did not factor in all remuneration received.

10. When Plaintiff missed meal periods, she was not paid at the correct regular rate of pay for premium pay.

11. Similarly, when Plaintiff missed rest periods, she was not paid at the correct regular rate.

12. When Plaintiff received sick pay, she did not receive sick pay at the correct regular rate.

FIRST CAUSE OF ACTION

PAGA PENALTIES

Against All Defendants

13. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

14. The PAGA period extends from September 26, 2021 to the date of settlement or judgment.

15. The aggrieved employees are Defendants' nonexempt employees during PAGA period.

16. The PAGA penalties for the overtime violation are contained in Sections 558 and 2699.

17. The PAGA penalties for the meal period violations are contained in Sections 558 and 2699.

18. The PAGA penalties for the rest period violations are contained in Section 2699.

19. The PAGA penalties for wage statement violations are contained in Section 2699.

20. The PAGA penalties for the waiting time violations are contained in Section 2699.

21. The PAGA penalties for the sick pay violations are contained in Section 2699.

22. Further, Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

SECOND CAUSE OF ACTION
WORK ENVIRONMENT HARASSMENT

Against All Defendants

23. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

24. Plaintiff was subjected to harassment based on her gender as explained above.

25. The harassment created an environment that was hostile and oppressive.

26. The harassing conduct by Plaintiff's co-worker was severe and pervasive.

27. A reasonable woman in Plaintiff's circumstances would have considered the work environment as hostile and oppressive.

28. Plaintiff considered the harassment as hostile and oppressive to the point she had to quit.

29. Defendants knew about the harassing conduct but did not intervene.

30. Plaintiff was harmed, and is entitled to backpay, attorney fees, and general damages.

THIRD CAUSE OF ACTION

OVERTIME VIOLATION

Against All Defendants

31. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

32. When Plaintiff received overtime, she was not paid at the correct regular rate of pay since the overtime rate did not factor all remuneration.

33. As a result, Plaintiff is entitled to all unpaid overtime plus interest, attorney fees, and costs pursuant to Labor Code section 1194.

FOURTH CAUSE OF ACTION

MEAL BREAKS VIOLATON

Against All Defendants

34. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

1 35. When Plaintiff missed meal breaks, which she should have received for every five hours of
2 work, she did not receive premium pay at the correct regular rate.

3 36. As a result, Plaintiff is entitled to premium pay at the regular rate for each missed break
4 pursuant to Labor Code section 226.7(c).

5
6 FIFTH CAUSE OF ACTION

7 REST BREAKS VIOLATION

8 Against All Defendants

9 34. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

10 35. When Plaintiff missed rest breaks, which she should have received for every four hours of
11 work, she did not receive premium pay at the correct regular rate.

12 36. As a result, Plaintiff is entitled to premium pay at the regular rate for each missed break
13 pursuant to Labor Code section 226.7(c).

14
15 SIXTH CAUSE OF ACTION

16 WAGE STATEMENT PENALTY

17 Against All Defendants

18 37. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

19 38. Plaintiff's wage statements were incorrect since they did not list the correct regular rate of
20 pay, and they did not list Defendants' address as required by Labor Code section 226.

21 39. Plaintiff is entitled to the wage statement penalty and attorney fees.

22
23 SEVENTH CAUSE OF ACTION

24 WAITING TIME PENALTY

25 Against All Defendants

26 40. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

27 41. Plaintiff was still owed wages when she stopped working for Defendants.

28 42. As a result, Plaintiff is entitled to the waiting time penalty under Labor Code section 203.

1 Prayer

2 First Cause of Action

- 3 1. All applicable PAGA penalties
- 4 2. Attorney fees and costs
- 5 3. Other relief the court deems proper

6

7 Second Cause of Action

- 8 1. Backpay
- 9 2. General damages
- 10 3. Attorney fees
- 11 4. Other relief the court deems proper

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13 Third Cause of Action

- 14 1. Reimbursement of unpaid overtime at the correct regular rate
- 15 2. Interest
- 16 3. Attorney fees
- 17 4. Other relief the court deems proper

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19 Fourth Cause of Action

- 20 1. Premium pay at the correct regular rate for each missed break
- 21 2. Other relief the court deems proper

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23 Fifth Cause of Action

- 24 1. Premium pay at the correct regular rate for each missed break
- 25 2. Other relief the court deems proper

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27 Sixth Cause of Action

- 28 1. Wage statement penalty

- 1 2. Attorney fees
2 3. Other relief the court deems proper
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4 Seventh Cause of Action

- 5 1. Waiting time penalty
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7 Date: December 15, 2022

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Adam Rose
Attorney for Plaintiff
Emily Villanueva

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