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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SAN MATEO**

10 23-CIV-05278

11 TREY ALEXANDER, on behalf of himself,  
12 the State of California, and all Aggrieved  
13 Employees,

14 Plaintiff,

15 vs.

16 IMPOSSIBLE FOODS INC.; and DOES 1  
17 through 100, inclusive,

18 Defendants.

Electronically  
**FILED**  
by Superior Court of California, County of San Mateo  
ON 11/3/2023  
By /s/ Anthony Berini  
Deputy Clerk

Case No.: \_\_\_\_\_

**REPRESENTATIVE ACTION  
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE  
PRIVATE ATTORNEYS GENERAL  
ACT (LABOR CODE § 2698, et seq.)**

**UNLIMITED CIVIL CASE**

1 Plaintiff Trey Alexander (“Plaintiff”), on behalf of himself, the State of California, and  
2 other aggrieved employees, hereby brings this Representative Action Complaint (“Complaint”)  
3 against Impossible Foods Inc.; and DOES 1 to 100, inclusive (collectively “Defendants”), and on  
4 information and belief allege as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself, all other aggrieved employees, and the State of  
7 California, hereby bring this Complaint for recovery of civil penalties under the Private Attorneys  
8 General Act, Labor Code § 2698, *et seq.* (“PAGA”), and Industrial Welfare Commission Wage  
9 Order 1 (“Wage Order 1”). The monetary damages that Plaintiff seek exceed this Court’s  
10 jurisdictional minimum.

11 **VENUE**

12 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§  
13 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the  
14 County of San Mateo. Defendants own, maintain offices, transact business, have agent(s) within  
15 the County of San Mateo, and/or otherwise are found within the County of San Mateo, and  
16 Defendants are within the jurisdiction of this Court for purposes of service of process.

17 **PARTIES**

18 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,  
19 Plaintiff was and currently is, a California resident. Plaintiff was employed by Defendants within  
20 the statute of limitations periods applicable to each cause of action pled herein.

21 4. Plaintiff is informed and believes, and based thereon alleges, that during the statute  
22 of limitations periods applicable to this action through the present, Defendants did (and continue  
23 to do) business and employed Plaintiff and other aggrieved employees within, among other  
24 counties, San Mateo County and the state of California and, therefore, were (and are) doing  
25 business in San Mateo County and the State of California.

26 5. Plaintiff does not know the true names or capacities, whether individual, partner,  
27 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said  
28 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to

1 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed  
2 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,  
3 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,  
4 and proximately caused Plaintiff and the other aggrieved employees to be subject to the unlawful  
5 employment practices, wrongs, injuries and damages complained of herein.

6         6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned  
7 herein, Defendants were and are the employers of Plaintiff and the other aggrieved employees.

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

15         8. At all times mentioned herein, Defendants, and each of them, were members of  
16 and engaged in a joint venture, partnership, and common enterprise, and acting within the course  
17 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,  
18 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the other  
19 aggrieved employees.

#### 20                     **REPRESENTATIVE ACTION ALLEGATIONS**

21         9. Plaintiff was employed by Defendants as a non-exempt Packaging Operator from  
22 approximately July 2019 until approximately June 2022.

23         10. During Plaintiff's employment with Defendants, Defendants sometimes failed to  
24 provide Plaintiff and other non-exempt employees with all statutorily mandated meal periods.  
25 Specifically, Plaintiff and other aggrieved employees were not always able to take meal periods  
26 of at least 30 minutes commencing prior to the end of the fifth hour of work, because they had to  
27 finish a task prior to taking a meal period and/or had their meal periods interrupted by work-  
28 related demands.

1           11.     While Defendants did pay some meal period premiums, Defendants failed to pay  
2 the meal period premiums at Plaintiff's and other aggrieved employees' "regular rate of  
3 compensation," as required under Labor Code § 226.7, by failing to include shift differentials  
4 and/or other remuneration that is not excludable from the regular rate.

5           12.     The California Supreme Court has held that the terms "regular rate of pay" as used  
6 in Labor Code § 510 and "regular rate of compensation" as used in Labor Code § 226.7 are  
7 synonymous, and therefore, just as shift differentials and other remuneration must be incorporated  
8 into the "regular rate of pay" when calculating overtime pay, they must also be incorporated into  
9 the "regular rate of compensation" when calculating meal and rest period premiums under Labor  
10 Code § 226.7. *See Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858, 862 (2021) (holding  
11 "that the terms are synonymous: 'regular rate of compensation' under section 226.7(c), like  
12 'regular rate of pay' under section 510(a), encompasses all nondiscretionary payments, not just  
13 hourly wages.") Thus, by failing to incorporate the value of shift differentials and/or other forms  
14 of non-excludable remuneration from the "regular rate of compensation" under Labor Code §  
15 226.7, Defendants have failed to pay meal period premiums to Plaintiff and other aggrieved  
16 employees at their correct "regular rate of compensation" under Labor Code § 226.7.

17           13.     Similarly, Defendants have failed to compensate Plaintiff and other non-exempt  
18 employees at their "regular rate" of pay for sick time hours, as required under Labor Code § 246,  
19 by failing to include shift differentials and/or other remuneration that cannot be excluded from  
20 the regular rate when calculating employees' sick time pay. *See* Labor Code § 246(l)(1) (requiring  
21 that "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the  
22 regular rate of pay for the workweek in which the employee uses paid sick time, whether or not  
23 the employee actually works overtime in that workweek.")

24           14.     In addition to failing to provide Plaintiff and other non-exempt employees with all  
25 statutorily mandated meal periods, Defendants also failed to provide Plaintiff and other non-  
26 exempt employees to all rest period to which they were entitled. Specifically, Plaintiff and other  
27 non-exempt employees were interrupted by work-related demands and/or were unable to take  
28 their rest periods at all due to the demands imposed on them by Defendants. Additionally,

1 Defendants failed to pay rest period premiums pursuant to Labor Code § 226.7 on those workdays  
2 when Defendants failed to authorize and permit all required rest periods. On information and  
3 belief, for at least a portion of the relevant time period, Defendants did not maintain a payroll  
4 code to pay rest period premiums under Labor Code § 226.7.

5 15. Defendants have also failed to reimburse Plaintiff and other non-exempt  
6 employees for all expenses incurred in connection with their employment. Specifically, Plaintiff  
7 was frequently contacted on his personal cell phone by managers, supervisors, and/or other  
8 employees of Defendants with work-related questions or directions. However, Defendants did not  
9 reimburse Plaintiff for any portion of his cell phone bill. On information and belief, other  
10 employees of Defendants were similarly required to use their personal cell phones for work-  
11 related purposes but were not reimbursed by Defendants. As a result, Plaintiff and other non-  
12 exempt employees are entitled to reimbursement pursuant to Labor Code § 2802 and *Cochran v.*  
13 *Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (2014).

14 16. Moreover, Plaintiff and other non-exempt employees were also not paid at least  
15 the minimum wage for all of their hours worked. Specifically, for at least a portion of the relevant  
16 time period, Plaintiff and other non-exempt employees were required to take COVID tests  
17 approximately once per week (generally on Wednesdays). These tests were sometimes taken  
18 before Plaintiff and other non-exempt employees clocked in for the day, and therefore Plaintiff  
19 and other non-exempt employees were not paid for the time undergoing those tests. Thus, Plaintiff  
20 and other non-exempt employees were not paid for all hours worked, resulting in unpaid  
21 minimum wages and overtime wages, and in their being paid for their hours worked at a rate less  
22 than what was promised to them by Defendants.

23 17. In addition, as a result of Defendants' failure to incorporate shift differentials  
24 and/or other remuneration in the "regular rate of pay," the overtime wages paid to Plaintiff and  
25 other on-exempt employees were underpaid. As noted above, shift differentials and other forms  
26 of remuneration are required to be included in employees' "regular rate of pay" when calculating  
27 overtime compensation, and Defendants failed to incorporate such incentive pay in employees'  
28 "regular rate" when calculating overtime, resulting in underpaid overtime wages.

1 18. Defendants' failure to properly pay all minimum wages, overtime wages, meal and  
2 rest period premium wages, and Defendants' failure to properly pay all sick time hours, resulted  
3 in Defendants failing to pay all wages to Plaintiff and other formerly employed aggrieved  
4 employees at the separation of their employment.

5 19. As a further result of Defendants' failure to properly pay all minimum wages,  
6 overtime wages, meal and rest period premium wages, and sick time wages, Defendants have  
7 maintained inaccurate payroll records, and have issued inaccurate wage statements to Plaintiff  
8 and other aggrieved employees, including (but not limited to) by failing to include the correct  
9 rates of pay, correct total hours worked, correct number of hours worked at each rate of pay,  
10 correct gross wages earned, and correct net wages earned.

11 20. Plaintiff is informed and believes, and based thereon alleges, that the violations  
12 described herein are continuing to the present.

13 **FIRST CAUSE OF ACTION**

14 **PRIVATE ATTORNEY GENERAL ACT**

15 **(AGAINST ALL DEFENDANTS)**

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

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

- a. Failing to provide meal periods, and failing to pay meal period premiums to Plaintiff and other aggrieved employees at the employees' respective "regular rates of compensation" for meal period violations, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- b. Failing to pay sick time hours at Plaintiff's and other aggrieved employees' respective regular rates of pay, in violation of Labor Code § 246;
- c. Failing to authorize and permit rest periods, and failing to pay rest period premiums, in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time compensation earned, in violation of Labor Code §§ 204, 223, 510, 558, 1194, and 1198;
- e. Failing to pay Plaintiff and other aggrieved employees at least the statutory minimum wage for all hours worked, in violation of Labor Code §§ 204, 223, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198;
- f. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses, in violation of Labor Code §§ 2802, 2804, and 1198;
- g. Failing to provide Plaintiff and other aggrieved employees with complete, accurate, itemized wage statements, in violation of Labor Code § 226;
- h. Failing to pay aggrieved former employees all final wages due at the end of their employment, in violation of Labor Code §§ 201-203;
- i. Failing to maintain accurate records, in violation of Labor Code §§ 558, 1174 and 1198; and
- j. Failing to pay all wages owed to Plaintiff and other aggrieved employees during their employment, in violation of Labor Code § 204.

23. On or about September 20, 2022 and on or about January 24, 2023, Plaintiff notified Defendants via certified mail and notified 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 22 (a)-(j). Now that Plaintiff has notified Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act.

24. Based on the foregoing, Plaintiff seeks to represent himself, the State of California, and all aggrieved employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California from September 20, 2021 to the present.

25. 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 are 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, jointly and severally, as follows:

26. Upon the First 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);

27. On all causes of action, for attorney's fees and costs as provided by Labor Code § 2699(g) and Code of Civil Procedure § 1021.5; and

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

Dated: November 3, 2023

Respectfully submitted,  
ABRAMSON LABOR GROUP

By: \_\_\_\_\_

  
Tuvia Korobkin  
Attorneys for Plaintiff