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Attorneys for Plaintiff and the Aggrieved Employees

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

JOSE GALLARDO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

VESTAS-AMERICAN WIND
TECHNOLOGY, INC.; and DOES 1
through 50, inclusive,

Defendants.

Case No.: BCV-25-101702

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR VIOLATION OF
LABOR CODE § 2698, ET SEQ.**

DEMAND OVER \$35,000.00

1 Plaintiff Jose Gallardo (“Plaintiff”) hereby submits this first amended representative
2 action complaint (“Complaint”) against Defendant Vestas-American Wind Technology, Inc.
3 (“Defendant”), and Does 1 through 50 (collectively, “Defendants”), on behalf of himself and
4 other aggrieved employees of Defendant, for penalties pursuant to the Private Attorneys General
5 Act (“PAGA”) for Defendant’s violation of the California Labor Code, as follows::

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California
8 Labor Code sections 226(a) and 2698, *et seq.*, and the applicable Wage Orders of the California
9 Industrial Welfare Commission (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendant.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide accurate itemized wage statements,
15 in violation of Labor Code section 226.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 have engaged in, among other things a system of willful violations of the California Labor Code
18 and the applicable IWC Wage Orders by creating and maintaining policies, practices, and
19 customs that knowingly deny employees the above stated rights and benefits.

20 **JURISDICTION AND VENUE**

21 5. The Court has jurisdiction over the violations of the California Labor Code
22 sections 226(a) and 2698, *et seq.* and the applicable Wage Orders.

23 6. Venue is proper in Kern County because Defendant conducts business and
24 employed Plaintiff within Kern County.

25 **PARTIES**

26 7. During the approximate period of March 4, 2024 to April 25, 2025, Plaintiff was
27 employed by Defendant as a Wind Technician Level 2. For the duration of his employment,
28 Plaintiff was an hourly, non-exempt employee.

1 8. Plaintiff was and is the victim of the policies, practices, and customs of
2 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
3 by California Labor Code sections 226(a) and 2698 *et seq.*, and the applicable Wage Orders.

4 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
5 Vestas-American Wind Technology, Inc. was and is a California corporation that maintains
6 operations in the State of California, including in Kern County.

7 10. Plaintiff is informed and believes, and based thereon alleges, that at all times
8 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
9 and partnerships, licensed to do business and actually doing business in the State of California.
10 As such, and based upon all the facts and circumstances incident to Defendants' business,
11 Defendants are subject to the California Labor Code.

12 11. Plaintiff does not know the true names or capacities, whether individual, partner,
13 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
14 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
15 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
16 based thereon alleges that each of said fictitious defendants was responsible in some way for the
17 matters alleged herein and proximately caused Plaintiff and the aggrieved employees to be
18 subject to the illegal employment practices, wrongs and injuries complained of herein.

19 12. At all times herein mentioned, each defendant participated in the doing of the acts
20 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,
21 and each of them, were the agents, servants, and employees of each of the other defendants, as
22 well as the agents of all Defendants, and at all times herein mentioned, were acting within the
23 course and scope of said agency and employment.

24 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
25 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
26 joint venturer of, or working in concert with each of the other co-Defendants and was acting
27 within the course and scope of such agency, employment, joint venture, or concerted activity. To
28 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the

1 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
2 Defendants.

3 14. At all times herein mentioned, Defendants, and each of them, were members of,
4 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
5 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

6 15. At all times herein mentioned, the acts and omissions of various Defendants, and
7 each of them, concurred and contributed to the various acts and omissions of each and all of the
8 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
9 herein mentioned, Defendants, and each of them, ratified each and every act or omission
10 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
11 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
12 damages as herein alleged.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

15 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

16 16. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
17 though fully set forth herein.

18 17. Plaintiff brings this cause of action as a proxy for the State of California, and in
19 this capacity, seeks penalties on behalf of all Aggrieved Employees from May 7, 2024, through
20 the present, for Defendant's violations of Labor Code section 226.

21 18. Plaintiff and the Aggrieved Employees were paid hourly. As such, the wage
22 statements should have reflected the total hours worked, pursuant to Labor Code section 226.
23 However, the wage statements issued by Defendant to Plaintiff and Aggrieved Employees failed
24 to identify such information accurately.

25 19. Whenever overtime wages were paid, the corresponding wage statements issued
26 to Plaintiff and Aggrieved Employees did not identify the accurate total hours worked. In
27 particular, when the hours shown on the wage statements are added up, they do not appear to
28 reflect the actual total hours worked.

20. On or about May 7, 2025, Plaintiff sent written notice to Defendant and the California Labor & Workforce Development Agency (“LWDA”) of Defendant’s violation of Labor Code section 226, pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written notice.

21. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendant's violation of Labor Code section 226, for the time period described above, on behalf of himself and other Aggrieved Employees.

PRAYER FOR RELIEF

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

1. Upon the First Cause of Action, for civil penalties according to proof, pursuant to California Labor Code section 2698 *et. seq.*;

2. For attorneys' fees and costs as provided by California Labor Code section 2699, and Code of Civil Procedure section 1021.5; and

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

DATED: August 18, 2025

DIVERSITY LAW GROUP, P.C.

By:

Larry W. Lee

Kristen M. Agnew

Attorneys for Plaintiff and the Aggrieved
Employees

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18
8 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,
9 Los Angeles, California 90071.

10 On August 18, 2025, I served the following document(s) described as: **FIRST**
11 **AMENDED REPRESENTATIVE ACTION COMPLAINT FOR VIOLATION OF**
12 **LABOR CODE § 2698, ET SEQ.** on the interested parties in this action as follows:

13 Sara Ross
14 sross@littler.com
15 Rachael Lavi
16 rlavi@littler.com
17 Krystal Saleh
18 ksaleh@littler.com

19 LITTLER MENDELSON, P.C.
20 2049 Century Park East, 5th Floor
21 Los Angeles, California 90067.3107
22 *Attorneys for Defendant*
23 *VESTAS-AMERICAN WIND TECHNOLOGY, INC.*

24 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-
25 entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website
26 www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for
27 the above-entitled case. The service transmission was reported as complete and a copy of the
28 filing receipt/confirmation will be filed, deposited, or maintained with the original document(s)
in this office.

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct. Executed on August 18, 2025, at Los Angeles, California.

26 
27 Erika Mejia