

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Richard Fruin

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

MARIA VEGA, an individual,

Plaintiff,

v.

LIFOAM INDUSTRIES, LLC, a California
Limited Liability Company; and DOES 1
THROUGH 20, inclusive,

Defendants.

Case No.: 23STCV02051
Unlimited Jurisdiction

COMPLAINT

- 1. NONPAYMENT OF OVERTIME
COMPENSATION;**
- 2. UNTIMELY PAYMENT OF WAGES;**
- 3. FAILURE TO PROVIDE MEAL
BREAKS;**
- 4. FAILURE TO PROVIDE REST
PERIODS;**
- 5. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS [California
Labor Code §226(a)];**
- 6. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS [California
Labor Code §226.3];**
- 7. UNLAWFUL WITHHOLDING OF
WAGES;**
- 8. WAITING TIME PENALTIES;**
- 9. CALIFORNIA PRIVATE ATTORNEY
GENERAL ACT [California *Labor*
Code §2698]; AND**
- 10. UNFAIR BUSINESS PRACTICES.**

DEMAND FOR JURY TRIAL

1 Plaintiff MARIA VEGA ("PLAINTIFF") hereby files this Complaint against Defendants
2 LIFOAM INDUSTRIES, LLC, a California Limited Liability Company, and DOES 1 THROUGH
3 20, inclusive (Collectively, "DEFENDANTS"). PLAINTIFF is informed and believes, and on the
4 basis of that information and belief, alleges as follows:

5 **PARTIES**

6 1. PLAINTIFF is, and at all times material hereto was, an individual residing in the
7 County of Los Angeles in the State of California.

8 2. PLAINTIFF is informed and believes, and on this basis alleges that Defendant
9 LIFOAM INDUSTRIES, LLC is, and at all times material hereto was, a California limited liability
10 company organized and existing under the laws of the State of California and authorized to conduct
11 business in the County of Los Angeles.

12 3. The true names and capacities of DOES 1 through 20, inclusive, whether individual,
13 corporate, associate, or otherwise, are unknown to PLAINTIFF at this time, who therefore sues
14 said defendants by such fictitious names; when the true names and capacities of such defendants
15 are ascertained, PLAINTIFF will seek leave of court to amend this Complaint to insert same.
16 PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is
17 responsible for each and every act and obligation hereinafter set forth.

18 4. PLAINTIFF is informed and believes and thereon alleges that each defendant
19 named in this Complaint now is, and was at all times herein mentioned, the agent, servant,
20 employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and
21 common enterprise of the other defendants herein, and was at all such times acting within the
22 course and scope of said agency and employment and with the consent and permission of each of
23 the other co-defendants, and each of the defendants herein ratified each of the acts of each of the
24 other co-defendants, and each of them.

25 **JURISDICTION AND VENUE**

26 5. Jurisdiction is proper because, upon information and belief, plaintiff worked for
27 defendants in the state of California, and all actions relevant to this Complaint occurred in the State
28 of California.

6. Venue is proper in Los Angeles County because, upon information and belief, at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains office, transacts business, and/or has an agent therein.

FACTS COMMON TO ALL CAUSES OF ACTION

7. From around April 2014 to December 8, 2021, PLAINTIFF began working for DEFENDANTS as a driver.

8. DEFENDANTS employed more than 25 employees at where PLAINTIFF was stationed.

9. Through bi-weekly direct deposits, PLAINTIFF was paid at \$17.50/hour, her most recent hourly rate.

10. On Monday, Wednesday and Thursday, PLAINTIFF was scheduled to work from 6:30 a.m. to 5 p.m. and she could leave work early at 3:30 p.m. on Tuesday.

11. PLAINTIFF's hours through Monday to Thursday are paid only at her regular rate of pay. If she was assigned to work on a Friday, the hours earned then would be considered overtime.

12. On a typical workday, PLAINTIFF was only permitted to have a lunch break around 9:30 a.m. to 10:30 a.m. If she worked more than 12 hours in a day, she would receive a third 15-minute break, Otherwise, she would only receive two 15-minute rest breaks in addition to her one and only lunch break, even though she constantly worked more than 10 hours a day. At times her breaks were interrupted due to busy job duties.

13. On October 12, 2022, PLAINTIFF complied with *Labor Code* §2699.3(a) in that PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development Agency ("LWDA") and DEFENDANTS of the specific provisions of the labor Code alleged to have been violated, including the facts and theories to support the alleged violation. As of the date of filing this complaint, (more than 60 calendar days after PLAINTIFF's LWDA letters were mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended to investigate the alleged violations.

14. On October 12, 2022, PLAINTIFF filed a complaint with the Department of Fair

1 Employment and Housing (“DFEH”) and obtained a Right to Sue letter on the same day.
2 PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and
3 Right to Sue notices.

4 **FIRST CAUSE OF ACTION**

5 **NONPAYMENT OF OVERTIME COMPENSATION**

6 **(PLAINTIFF against all DEFENDANTS)**

7 15. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
8 Complaint by reference as though fully set forth herein.

9 16. *Labor Code* §510(a) provides that any work in excess of eight hours in one workday
10 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
11 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
12 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
13 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In
14 addition, any work in excess of eight hours on any seventh day of a workweek shall be
15 compensated at the rate of no less than twice the regular rate of pay of an employee.

16 17. PLAINTIFF performed work for DEFENDANTS that PLAINTIFF worked
17 overtime hours for more than eight (8) hours in a day and/or forty (40) hours in a week.

18 18. DEFENDANTS knew or should have known that PLAINTIFF had worked
19 overtime hours.

20 19. PLAINTIFF was at all times relevant a non-exempt hourly employee of
21 DEFENDANTS.

22 20. PLAINTIFF was not paid for the overtime hours worked.

23 21. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived
24 of wages and overtime in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of
25 such amounts from DEFENDANTS, plus interest, penalties and attorney’s fees and costs.

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1 amend working condition orders with respect to meal periods for any workers in California
2 consistent with the health and welfare of those workers.

3 30. Section 11(C) of the *IWC Wage Order(s)* provides that “Unless the employee is
4 relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on
5 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only
6 when the nature of the work prevents an employee from being relieved of all duty and when by
7 written agreement between the parties an on-the-job paid meal period is agreed to. The written
8 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

9 31. Section 11(D) of the *IWC Wage Order(s)* provides that “If an employer fails to
10 provide an employee a meal period in accordance with the applicable provisions of this order, the
11 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
12 compensation for each workday that the meal period is not provided.”

13 32. Furthermore, an employer may not undermine a formal policy of providing meal
14 breaks by pressuring employees to perform their duties in ways that omit breaks. The wage orders
15 and governing statute do not countenance an employer's exerting coercion against the taking of,
16 creating incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

17 33. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
18 non-exempt position.

19 34. PLAINTIFF’s employment with DEFENDANTS entitled PLAINTIFF to meal
20 breaks.

21 35. PLAINTIFF was at times not given meal breaks and at other times meal breaks
22 which were not compliant with labor laws. Further, at times PLAINTIFF worked more than 10
23 hours in a shift; however, PLAINTIFF was not given or advised that PLAINTIFF may take a full
24 second meal break.

25 36. PLAINTIFF had been harmed and DEFENDANTS are liable to PLAINTIFF for
26 one (1) hour of additional premium pay at the regular rate of compensation for each day in which
27 the proper meal was not provided. The exact amount of missed meal break wages owed to
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1 PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such amounts from
2 DEFENDANTS, plus interest, penalties and attorney's fees and costs.

3 **FOURTH CAUSE OF ACTION**

4 **FAILURE TO PROVIDE REST PERIODS**

5 **(PLAINTIFF against all DEFENDANTS)**

6 37. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
7 Complaint by reference as though fully set forth herein.

8 38. State law requires employers to authorize paid rest periods of a specified minimum
9 duration of 10 minutes for every four hours an employee works. (See, e.g., *8 California Code*
10 *Regulations* §§11010-11150 ¶2 and §11160 ¶1; Wage order No. 5)

11 39. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
12 non-exempt position.

13 40. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to rest
14 breaks. PLAINTIFF's shifts that were over four (4) hours therefore were entitled to a rest period
15 of not less than ten (10) minutes prior to exceeding four (4) hours of employment for each four (4)
16 hours of work.

17 41. Throughout PLAINTIFF's employment, DEFENDANTS typically did not provide
18 PLAINTIFF with rest breaks and/or compliant breaks for every four hours of work.

19 42. An employer who fails to provide rest periods as required by an applicable Wage
20 Order must pay the employee one (1) additional hour of pay at the employee's regular rate of pay
21 for each workday that a rest period was not provided. The exact amount of missed rest break wages
22 owed to PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such
23 amounts from DEFENDANTS, plus interest, penalties and attorney's fees and costs.

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

26 **IN VIOLATION OF LABOR CODE § § 226(a)(e)**

27 **(PLAINTIFF against all DEFENDANTS)**

28 43. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this

1 Complaint by reference as though fully set forth herein.

2 44. *Labor Code* §226(a) requires employers to provide accurate itemized wage
3 statements for each wage payment. *Labor Code* §226(e) provides for a recovery of the greater of
4 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
5 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
6 aggregate penalty of four thousand dollars (\$4,000) (per employee).

7 45. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage
8 statements, willfully or intentionally. DEFENDANTS also failed to account for accurate
9 withholdings, hours, wage rates, overtime, meal and rest premiums, among other things.

10 46. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
11 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties
12 promulgated under *Labor Code* §§226.

13 47. PLAINTIFF is also entitled to injunctive relief to ensure compliance with the
14 aforementioned *Labor Code* provision.

15 **SIXTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

17 **IN VIOLATION OF LABOR CODE § 226.3**

18 **(PLAINTIFF against all DEFENDANTS)**

19 48. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
20 Complaint by reference as though fully set forth herein.

21 49. *Labor Code* §§226 and 226.3 provides for civil penalties against anyone who
22 violates *Labor Code* §226. *Labor Code* §226(a) requires employers to provide accurate itemized
23 wage statements for each wage payment. Specifically, *Labor Code* §226.3 provides a penalty of
24 two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand
25 dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer
26 fails to provide the employee a wage statement in compliance with *Labor Code* §226.

1 50. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage
2 statements, willfully or intentionally. DEFENDANTS also failed to account for accurate
3 withholdings, hours, wage rates, overtime, meal and rest premiums, among other things.

4 51. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
5 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties
6 promulgated under *Labor Code* §§226 and 226.3.

7 **SEVENTH CAUSE OF ACTION**

8 **UNLAWFUL WITHHOLDING OF WAGES**

9 **(PLAINTIFF against all DEFENDANTS)**

10 52. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
11 Complaint by reference as though fully set forth herein.

12 53. *Labor Code* §216 provides that it is a misdemeanor for an employer to "willfully
13 refuse to pay wages due and payable after demand has been made" or "falsely deny the amount or
14 validity thereof."

15 54. *Labor Code* §225.5 provides a penalty of \$100 for an initial violation and \$200 for
16 any subsequent violation of §216 plus 25% of the withheld amount.

17 55. Upon termination by DEFENDANTS, PLAINTIFF was entitled by law to receive
18 all of PLAINTIFF's wages and paycheck(s) immediately. DEFENDANTS also unlawfully
19 withheld the balance of earned wages, overtime, missed meal and rest break wages. Moreover,
20 these wages were demanded thereafter.

21 56. As a result of DEFENDANTS' aforementioned unlawful acts, PLAINTIFF
22 suffered damage. DEFENDANTS are subject to the penalty under *Labor Code* §225.5. The exact
23 amount of penalties will be proved at trial, and PLAINTIFF is entitled to such penalties plus
24 interest as required by law in addition to restitution of all wages earned but not paid.

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1 **EIGHTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES**

3 **(PLAINTIFF against all DEFENDANTS)**

4 57. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
5 Complaint by reference as though fully set forth herein.

6 58. *Labor Code* §203 provides that “if an employer willfully fails to pay, without
7 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages
8 of an employee who is discharged or who quits, the wages of the employee shall continue as a
9 penalty from the due date thereof at the same rate until paid or until an action therefor is
10 commenced; but the wages shall not continue for more than 30 days.”

11 59. PLAINTIFF’s employment with DEFENDANTS ended.

12 60. DEFENDANTS failed to pay PLAINTIFF all wages when due since PLAINTIFF’s
13 termination until the date of filing this Complaint.

14 61. DEFENDANTS willfully failed to pay PLAINTIFF final wages in full.

15 62. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
16 damage. PLAINTIFF is entitled to recover from DEFENDANTS the statutory penalty wages for
17 each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum
18 pursuant to *Labor Code* sections 203, plus interest and attorney’s fees in the amount to be proven
19 at trial.

20 **NINTH CAUSE OF ACTION**

21 **CALIFORNIA PRIVATE ATTORNEY GENERAL ACT**

22 **LABOR CODE § 2698**

23 **(PLAINTIFF against all DEFENDANTS)**

24 63. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
25 Complaint by reference as though fully set forth herein.

26 64. PLAINTIFF and the other non-exempt employees are “aggrieved employees” as
27 defined by *Labor Code* §2699(c) in that they are all current or former employees of
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1 DEFENDANTS, and one or more of the causes of action in this complaint was committed against
2 PLAINTIFF and the aggrieved employees.

3 65. PLAINTIFF is a proper representative to bring a civil action on behalf of
4 PLAINTIFF and other current and former employees of DEFENDANTS pursuant to the
5 procedures specified in *Labor Code* §2699.3.

6 66. As such, PLAINTIFF and the aggrieved employees are entitled to civil penalties
7 pursuant to *Labor Code* §558 and §2699(a), (f) and (g), cost, expenses, and attorneys' fees for
8 violation of *Labor Code* Sections listed in this complaint.

9 **TENTH CAUSE OF ACTION**

10 **UNFAIR BUSINESS PRACTICES**

11 **IN VIOLATION OF CAL. BUS. & PROF. CODE § § 17200 ET. SEQ.**

12 **(PLAINTIFF against all DEFENDANTS)**

13 67. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
14 Complaint by reference as though fully set forth herein.

15 68. DEFENDANTS, themselves or through their supervisors, in an effort to exploit,
16 harass, and discriminate against their employees for profit or otherwise, have engaged in the
17 following unlawful, unfair, deceptive, and misleading business practices, amongst others outlined
18 in this complaint:

- 19 a. Failing to pay overtime wages earned and owed to employees;
20 b. Failing to provide proper meal breaks and rest periods, or to pay premium
21 wages for missed meal and rest periods to PLAINTIFF; and,
22 c. The foregoing wrongful activities have caused harm, fear, pressure, and
23 humiliation to the employee(s) at DEFENDANTS.

24 69. PLAINTIFF is entitled to enforce all applicable penalty provisions of the California
25 Business and Professions Code §17202.

26 70. Pursuant to the provisions of §17203 of the California Business and Professions
27 Code, PLAINTIFF is entitled to restoration of lost wages, meal breaks and rest periods premium
28 wages, interests, and profits DEFENDANTS have collected by the use of the unfair, deceptive,

1 and misleading business practices described in this Complaint.

2 71. Pursuant to provisions of §17203 et seq. of the California Business and Professions
3 Code, DEFENDANTS must be ordered to disgorge all the unlawful profits in the relevant statutory
4 to PLAINTIFF, which DEFENDANTS have received from improperly billing clients and cheating
5 of employees in terms of their hours reported as having been worked but not paid.

6 72. Pursuant to the provisions of §17203 of the California Business and Professions
7 Code, this Court should issue an injunction prohibiting DEFENDANTS from engaging in the
8 foregoing unfair, deceptive, and misleading business practices.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and DOES 1
11 through 20 inclusive, as follows:

12 1. General and compensatory damages in an amount to be subject to proof at trial to
13 the extent permitted by law;

14 2. Liquidated damages (if applicable);

15 3. Special damages;

16 4. Emotional distress damages;

17 5. Civil and statutory penalties (including under PAGA where applicable);

18 6. Restoration of all money PLAINTIFF lost that DEFENDANTS have collected by
19 the use of the unfair, deceptive, and misleading business practices described as in unfair business
20 practices cause of action;

21 7. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair,
22 deceptive, and misleading business practices described as in unfair business practices cause of
23 action;

24 8. Declaration that DEFENDANTS' business practices are unfair within the meaning
25 described as in unfair business practices cause of action;

26 9. Pre-judgment interest;

27 10. Costs of lawsuit herein incurred;

28 11. Attorneys' fees; and

1 12. For an award of such other and further equitable and legal relief as this Court may
2 deem appropriate.

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6 Dated: January 30, 2023

BITTON & ASSOCIATES

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10 Ophir J. Bitton, Esq.
11 Lei Wei, Esq.
Attorneys for Plaintiff,
Maria Vega

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Dated: January 30, 2023



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