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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

CHAWNDRA M. SPALIONE, on behalf of the STATE OF CALIFORNIA. individually, and on behalf of all other aggrieved employees,

Plaintiff,

v.

1906 INC., a California corporation company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: CIVRS2507030

COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004

[California Labor Code § 2698 et seq.]

Plaintiff Chawndra M. Spalione ("Plaintiff") brings this representative action, on behalf of the State of California and all other aggrieved employees, to recover civil penalties relating to systematic violations of California wage and hour laws by 1906 Inc. ("1906" or "Defendant"). Plaintiff makes the following allegations on information and belief, except as to allegations which are based on her personal knowledge.

INTRODUCTION

1. Defendant owns and operates one or more restaurants in the County of San Bernardino, California. Plaintiff, along with other non-exempt employees of Defendant, worked and performed duties and tasks at Defendant's restaurants, and additionally, received wages from Defendant.

2. Defendant implemented common policies and practices within its restaurant that has resulted in systematic violations of California's wage and hour laws.

3. In an effort to conserve labor costs, and thereby maximize profits, Defendant has implemented policies and practices that have resulted in systematic violations of California's wage and hour laws. For example, Defendant has implemented unlawful policies with respect to meal and rest breaks. Defendant requires non-exempt employees, who are informed that the needs of the restaurant and its patrons take top priority, to work through meal and rest breaks, to take untimely meal periods and to remain on call during such breaks. As a result, Plaintiff and other aggrieved employees have been denied the ability to take meal and rest breaks that they were and are legally entitled to take.

4. Defendant failed to pay timely wages to current and former employees and has failed to maintain required employee records and provide accurate, itemized wage statements.

JURISDICTION AND VENUE

5. The Superior Court of the State of California has jurisdiction in this matter because Defendant is licensed to do business under the laws of the State of California and does business in the State of California. No federal question is at issue because Plaintiff's claims are based solely on California law.

6. Venue is proper in this judicial district and the County of San Bernardino because

Defendant maintain one or more of its restaurants located in the County of San Bernardino and within this judicial district. Many if not all of the other aggrieved employees also worked for Defendant at its restaurants located in the County of San Bernardino.

THE PARTIES

7. During the statute of limitations period, Plaintiff was employed by Defendant working as a bartender and server in Defendant's restaurant located in Upland, California, and she was responsible for taking and fulfilling orders for customers at the bar at Defendant's restaurant and bar. The City of Upland is located in the County of San Bernardino, California.

8. Defendant is, and at all times relevant herein were, a corporation organized and existing under the laws of the State of California. On information and belief, Defendant is authorized to conduct business in the State of California and does conduct business in the State of California.

9. At all relevant times herein, Defendant and other unknown and unnamed individuals were the joint employers of Plaintiff and aggrieved employees. Defendant was the alter egos, divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities, co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible, of each other. Each Defendant was completely dominated by his, her or its co-Defendants, and each was the alter ego of the other. Moreover, at all material times there has been extensive interrelation of operations, common management, centralized control of labor relations with respect to Plaintiff and Class members, and common ownership or financial control between all Defendants.

10. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE defendants when ascertained.

PAGA REPRESENTATIVE AC TION ALLEGATIONS

11. On June 10, 2025, Plaintiff gave written notice by certified mail pursuant to California Labor Code § 2699.3, to the California Labor and Workforce Development Agency ("LWDA") and Defendant, of the specific provisions of the California Labor Code and IWC Wage Order alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has not received any response from the LWDA. As Plaintiff has waited more than sixty-five (65) days from the June 10, 2025, postmark date of her written notice before filing this action, Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action under the California Private Attorneys General Act of 2004 ("PAGA").

12. Pursuant to the PAGA, California Labor Code §§ 2698-2699.5, Plaintiff brings this action on behalf of the State of California, and all other aggrieved employees (e.g., current and former non-exempt employees of Defendant who are California citizens and performed work for Defendant in the State of California at any time within the period beginning one (1) year prior to the June 10, 2025, notice Plaintiff provided to the LWDA and Defendant, and ending at the time this action proceeds to final judgment ("statute of limitations period").

13. Plaintiff is an "aggrieved employee" under PAGA, as Plaintiff was employed by Defendant during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term "civil penalty" is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA") plus reasonable attorneys' fees and costs, for all other aggrieved current and former employees of Defendant during the Civil Penalty Period. Plaintiff does not seek to assert his own claim for civil penalties under PAGA as part of this Action.

14. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA allegations described herein is not required.

FACTUAL ALLEGATIONS

Failure to Provide Required Meal Periods

[Labor Code §§ 226.7, 512 and § 11 of the applicable IWC Order]

15. During the statute of limitations period, as part of Defendant's illegal policies and practices to minimize labor costs and maximize corporate profits, Defendant has required, permitted or otherwise suffered Plaintiff and aggrieved employees to perform work during their meal periods, to completely skip their meal periods, to take late and short meal periods, and Defendant has otherwise failed to provide the required meal periods to Plaintiff and aggrieved employees as required under California Labor Code §§ 226.7, 512 and § 11 of the applicable IWC Order.

16. Defendant has implemented several practices that have caused Plaintiff and aggrieved employees to systematically miss and otherwise take non-compliant meal periods. Defendant systematically understaff job sites such that non-exempt employees are given so much work to complete that they regularly miss or otherwise take non-compliant meal periods. As a direct consequence of this understaffing, Plaintiff and aggrieved employees have so much work to complete within their scheduled shifts that they are forced to skip their meal periods altogether, to take them after working longer than five (5) hours, to perform work during their meal periods, or return to work after taking less than a thirty (30) minute meal period. Moreover, Plaintiff and other aggrieved employees need to secure permission before taking a meal period, which is often denied by supervisors.

17. There are also frequent occasions when Plaintiff and aggrieved employees need to perform other duties immediately before the time during which they are legally entitled to take a meal period. Pursuant to Defendant's policies, Plaintiff and aggrieved employees cannot simply drop their job duties and leave a customer, refuse an order or stop cleaning in order to take a meal period. Consequently, Plaintiff and aggrieved employees regularly miss meal periods, take late meal periods, return early from meal periods, and even clock out for meal periods but continue working.

18. Plaintiff and aggrieved employees need to secure permission before taking a meal period. Plaintiff and aggrieved employees often cannot simply stop taking an order from a customer or stop cleaning to take their meal period, and their inability to secure coverage frequently causes

them to miss and otherwise take non-compliant meal periods.

19. Despite the foregoing, Defendant has implemented a policy and practice of actively discouraging the issuance of meal period premium payments, and in the process, Defendant has violated California Labor Code §§ 226.7 and § 11 of the applicable IWC Wage Order, by failing to compensate Plaintiff and aggrieved employees who were not authorized and permitted to take a complete, timely, uninterrupted meal period, one additional hour of compensation at the proper regular rate of pay for each workday that such a meal period was not authorized or permitted.

20. Defendant also implemented unlawful meal period policies by compensating Plaintiff and aggrieved employees for interrupted meal periods only for their actual work time, as opposed to paying them the legally required premium payments for non-compliant meal periods.

Failure to Provide Required Rest Breaks

[Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Wage Order]

21. During the statute of limitations period, as part of Defendant's illegal policies and practices to minimize labor costs and maximize corporate profits, Defendant has failed to authorize and permit Plaintiff and other aggrieved employees to take rest breaks as required under California Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Wage Order.

22. The same or similar policies and practices that deprive Plaintiff and other aggrieved employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to take their first and second and third rest breaks. As alleged herein, Defendant understaffs its restaurants, which creates so much work for Plaintiff and other aggrieved employees that they are frequently unable to take rest breaks. Moreover, Plaintiff and aggrieved employees need to first secure permission before taking a rest break. Plaintiff and aggrieved employees often cannot simply stop assisting a customer or stop cleaning to take a rest break, and their inability to secure coverage causes them to regularly miss and otherwise take non-compliant rest breaks.

23. Defendant also does not provide adequate training regarding its legal obligations with respect to the provision of rest breaks, does not implement a schedule regarding rest breaks for non-exempt employees, and often interrupts staff who try to take rest periods. In short, Defendant essentially has non-existent rest break policies, as there is no guidance or specification as to when

Plaintiff and other aggrieved employees are authorized and permitted to take rest breaks during their shifts.

24. Defendant also violated California Labor Code § 226.7, and § 12 of the applicable IWC Order, by failing to pay Plaintiff and other aggrieved employees who were not provided with a rest break, in accordance with the applicable wage order, one additional hour of compensation at the proper regular rate of pay for each workday that a rest break was not provided.

Failure to Pay Overtime Wages

[Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order]

25. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order, Defendant is required to compensate Plaintiff and other aggrieved employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

26. During the statute of limitations period, Defendant failed to compensate Plaintiff and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the California Labor Code and IWC Wage Order by, among other methods: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by California Labor Code §§ 510, 1194 and § 3 of the applicable IWC Order, requiring, permitting or suffering Plaintiff and other aggrieved employees to work off-the-clock, and to work through meal and rest breaks, but not compensating them for this time, unlawful rounding of time worked by Plaintiff and the other aggrieved employees in favor of Defendant, improperly calculating the regular rate of pay based on bonuses, commissions, and other remuneration, and other methods to be discovered.

27. In a short-sighted attempt to maximize profits, Defendant has understaffed its restaurant. Not only has this practice resulted in widespread missed meal and rest breaks, but it has also caused Plaintiff and other aggrieved employees to perform work while off-the-clock. Defendant has actual or constructive knowledge of this off-the-clock work and subtly condone it. Plaintiff and

other aggrieved employees routinely arrive to work early to check so that they are prepared and ready to begin performing their duties promptly at the start of their shifts, as they must be pursuant to the requirements of Defendant. Defendant knows that Plaintiff and other aggrieved employees perform this work off-the-clock.

28. Defendant has knowingly and willfully refused to perform its obligations to compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in violation of California Labor Code §§ 510, 1194 and 1198, and § 3 of the applicable IWC Order.

Failure to Pay Minimum Wages

[Labor Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order]

29. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

30. During the statute of limitations period, Defendant failed to pay Plaintiff and other aggrieved employees minimum wages for all hours worked by requiring, permitting or suffering Plaintiff and other aggrieved employees to work off the clock, such as requiring them to work through meal and rest breaks but not compensating them for this time, unlawful rounding of time worked by Plaintiff and the other aggrieved employees in favor of Defendant, and failing to include this time in all hours worked, and other methods to be discovered.

31. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Orders. As a proximate result of the aforementioned violations, Plaintiff and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 1194, 1197.1, and any other applicable law, Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

Failure to Timely Pay Wages During Employment

[Labor Code §§200, 204 and 210]

32. Pursuant to California Labor Code §§ 200, 204 and 210, for all labor performed

between the 1st and 15th days of any calendar month, Defendant is required to pay its nonexempt employees between the 16th and 26th day of the month during which the labor was performed. California Labor Code § 204 also provides that for all labor performed between the 16th and 26th days of any calendar month, Defendant is required to pay its non-exempt employees between the 1st and 10th day of the following calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday of the next regular payroll period.

33. Defendant has knowingly and willfully failed to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next regular payroll period as required by California Labor Code § 204, including but not limited to, compensation for missed meal and rest breaks, proper overtime wages due to an unlawful calculation of the regular rate of pay, and for work performed off-the-clock.

Failure to Pay All Wages Due to Discharged and Quitting Employees

[Labor Code §§ 201, 202 and 203]

34. Pursuant to California Labor Code §§ 201, 202 and 203, Defendant is required to pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately.

35. Furthermore, pursuant to California Labor Code § 202, Defendant is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

36. California Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 workdays. For instance, Plaintiff was not paid all of his wages at the time of his termination.

37. During the statute of limitations period, Defendant has willfully failed to pay accrued

wages and other compensation to Plaintiff and other aggrieved employees in accordance with California Labor Code §§ 201 and 202. On information and belief, Defendant does not have a sufficient policy to provide aggrieved employees with their final paychecks within the timeframes required under California law. Defendant continues to fail to properly compensate other aggrieved employees for all hours worked when due, overtime wages, and compensation for non-compliant meal and rest breaks, Defendant also willfully failed and continues to fail to pay accrued wages and other compensation to the aggrieved employees in accordance with California Labor Code §§ 201 and 202.

Failure to Furnish Accurate Itemized Wage Statements

[Labor Code § 226(a) and § 7 of the applicable IWC Order]

38. During the statute of limitations period, Defendant routinely failed to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements. Defendant's pay stubs have violated California Labor Code § 226. Next, Defendant is not providing Plaintiff and other aggrieved employees with proper meal periods and rest breaks but intentionally fails to include in their wage statements one (1) additional hour of compensation at their regular rates of pay for each non-compliant meal period or rest break. Moreover, Defendant has failed to pay proper overtime wages to Plaintiff and other aggrieved employees and their wage statements therefore fail to reflect the correct hourly rates worked by Plaintiff and other aggrieved employees.

39. In order to conceal its wage theft, Defendant knowingly and intentionally failed to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

40. Plaintiff and other aggrieved employees suffered injury as a result of the failure of Defendant to provide timely and accurate itemized wage statements because it prevented them from discovering the scope and extent of Defendant's violations of California wage and hour laws, prevented them from being able to accurately determine the gross wages earned, the total hours worked, all deductions made, the net wages earned, all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, and other illegal methods yet to be determined.

Failure to Maintain Required Records

[Labor Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Order]

41. During the statute of limitations period, as part of Defendant's illegal payroll policies and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due, Defendant knowingly and intentionally failed to maintain records as required under California Labor Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Wage Order, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay relating to non-discretionary bonuses, including but not limited to, overtime and double-time; all deductions; meal and/or rest periods; time records showing when each employee begins and ends each work period; and accurate itemized statements that reflect all compensation, rates of pay for all compensation paid and remuneration owed and due to them. Defendant has knowledge that it was not providing its non-exempt employees with proper meal and rest periods but knowingly failed to include in the wage statements one (1) extra hour of compensation for each missed meal and rest period, and maintain the accurate and correct wage statement on its wage statements. Defendant also illegally and inaccurately recorded the time in which Plaintiff and other aggrieved employees worked. Defendant has also failed to maintain accurate, itemized wage statements, as alleged above.

Failure to Pay All Gratuities and Tips

[Labor Code §§350-351]

42. California law provides that gratuities left for an employee for services performed belong to the employee and not the employer. In particular, Labor Code §351 provides, "No Employer or agent shall collect, take or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron ... Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for." See, Labor Code §350. Here, Defendant failed to pay Plaintiff and the other aggrieved employees all tips received from Defendant's customers when customers paid by credit card.

Failure to Indemnify Employees for Necessary Expenditures

[Cal. Lab. Code § 2802]

43. California Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

44. During the Statute of Limitations Period, Defendant has failed to reimburse aggrieved employees for the usage of their personal cellular phones, in addition to other supplies. Defendant failed to reimburse Plaintiff and other aggrieved employees for the costs of the expenditures relating to their cellular phones, maintenance

45. Defendant failed to adequately comply with California Labor Code § 2810.5 with the notice requirements as Defendant failed to provide Plaintiff and the other aggrieved employees of the statutorily required notice regarding wage information, rate of pay, overtime rate of pay, etc.

Failure to Provide Sick Leave

[California Labor Code §§245, 245.5, 246 and 248.5]

46. California Labor Code §§245 and 246 sets for the State of California's sick leave benefits to non-exempt, hourly employees. In that respect, California Labor Code §246 provides that an employee who works in California for more than "30 or more days within a year … is entitled to be paid sick days …" California Labor Code § 246(i) requires an employer to provide an employee with "written notice" that sets forth the "amount of sick leave available" on the employee's wage statement pursuant to California Labor Code § 226 or "… in a separate writing provided on the designated pay date with the employee's payment of wages."

47. California Labor Code § 245.5 provides that sick leave can be taken to care for a family member which is defined as follows:

> "(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
>
> (2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
>
> (3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(8) A designated person …"

48. California Labor Code § 245.5 provides that sick leave can be taken to care for a family member which is defined as follows: Defendants failed to provide Plaintiff and other aggrieved employees with sick leave relating to the care of a family member and failed to comply with the requirements of California Labor Code § 246(i) by not listing the available amount of sick leave on Plaintiff's and other aggrieved employees wage statements pursuant to California Labor Code § 226 or on a separate writing at the time when Defendants paid their wages. California Labor Code §248.5 provides for penalties in an amount up to $4,000 for the unlawful withholding of sick leave, and $50.00 for each day a violation of an employee's rights to sick leave occurs or continues to occur for an employee.

Failure to Implement a Workplace Violence Prevention Policy

[California Labor Code §§6401.7 and 6401.9]

49. California Labor Code §§6401.7 and 6401.9 required Defendant to develop and implement a workplace violence prevention plan in accordance with newly codified Labor Code section 6401.9, which sets out the requirements for the plan.

50. Starting July 1, 2024, Defendant was required to establish, implement, and maintain a Workplace Violence Prevention Plan that includes: 1) implementation of a Workplace Violence Prevention Plan; 2) maintaining a violence incidence log; 3) training program to discuss and prevent workplace violence; and 4) maintain records relating to workplace violence which includes, records of workplace violence hazard identifications, evaluations, and correction must be created and maintained for a minimum of five years; training records must be created and maintained;. incident logs; and records of workplace violence incident investigations under must be maintained.

51. Defendant willfully failed to implement a Workplace Violence Prevention Policy starting on or about July 1, 2024. Plaintiff, on behalf of the State of California and the other

aggrieved employees, are entitled to recover penalties up to $25,000 for serious violations, and up to $158,727 for "willful" violations. See, Labor Code §§6401.7, 6401.9, 6428, and 6429.

Failure to Implement Heat & Temperature Illness Prevention Laws

[California Code of Regulations, Title 8, section 3395 Heat Illness Prevention, Labor Code §§ 6308, 6317 and any other statutes]

52. Defendant was required to and willfully failed to maintain adequate temperatures which created excessive heat or humidity exposing Plaintiff and the other Aggrieved Employees to temperature related hazards. Defendant failed to maintain a comfortable working environment by willfully and knowingly not maintaining adequate temperatures in the workplace.

53. On June 20, 2024, the Occupational Safety and Health Standards Board approved California Code of Regulations, Title 8, section 3396, "Heat Illness Prevention in Indoor Places of Employment". This standard applies to most workplaces where the indoor temperature reaches 82°F. It established required safety measures for indoor workplaces to prevent worker exposure to risk of heat illness. This standard went into effect on July 23, 2024. Defendant willfully failed to comply with the mandates of the new OSHA regulations and California law.

54. The applicable provisions of the IWC Wage Orders required temperature to be maintained by Defendant at comfortable levels. Defendant has always had an affirmative duty to prevent and reduce excessive heat or humidity created by thew work environment, location, department or any other area of work that creates excessive hear and where employees are exposed to heat illness thereby requiring safety measures including, but not limited, to recovery periods. Defendant, however, has no written policy regarding preventative measures as required by California law or as required by Labor Code § 226.7 and the recently enacted OSHA standards requiring employer to take affirmative measures to prevent heat illness for indoor employees pursuant to California Code of Regulations, Title 8, section 3395 Heat Illness Prevention, Labor Code §§ 6308, 6317 and any other statutes conferring enforcement powers upon the Division.

55. Pursuant to California Labor Code §6721, Defendant was mandated to implement indoor heat prevention standards as set forth in the recently amended Sections 3395 and 3396 of Title 8 of the California Code of Regulations, otherwise known as the Maria Isabel Vasquez

Jimenez heat illness standard. Defendant failed to implement Indoor Heath Prevention policies applicable to Plaintiff and the other Aggrieved Employees when working as assigned by Defendant at its customer locations throughout the State of California.

56. Section 3396 required Defendant to establish, implement, and maintain an effective Heat Illness Prevention Plan for indoor places of employment. The plan must be in writing and include procedures for water provision, access to cool-down areas, temperature measurement, emergency response, and acclimatization. Defendant failed to establish, implement and maintain an effective Heat Illness Prevention Plan for both indoor and outdoor places of employment for Plaintiff and the other Aggrieved Employees.

57. Defendant's failure to comply with California Labor Code §6721 and the recently amended Section 3395 of Title 8 of the California Code of Regulations will result in the imposition of substantial civil penalties. In particular, California Labor Code §6428 provides that any employer which violates any occupational safety or health standard shall be assessed a civil penalty of up to $25,000 for each serious violation. Employers who operate without an injury prevention program can be assessed heightened penalties of up to $124,709. See, California Labor Code §6429. Thus, the maximum amount of penalties should be imposed against Defendant based upon the failure to implement a heat prevention program.

FIRST CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT

[Cal. Lab. Code § 2698 *et seq*.]

(On Behalf of Plaintiff and the Aggrieved Employees Against Defendants)

58. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 57 above.

59. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of herself and other aggrieved employees pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff was employed by Defendant and one or more of the alleged California Labor Code violations was committed against Plaintiff during the statute of limitations period.

60. Plaintiff seeks to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

61. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties from Defendant in a representative action for the violations set forth above, including but not limited to, violations of California Labor Code §§ 201, 202, 203, 226, 226.7, 246, 510, 512, 558, 1174, 1194, 2802, 6429 and for the violations of the applicable IWC Wage Order alleged above.

63. Pursuant to California Labor Code § 2699, Plaintiff seeks to recover civil penalties against Defendants for violations of California Labor Code provisions for which a civil penalty is specifically provided.

64. California Labor Code § 2699(f) provides that for all California Labor Code violations for which a civil penalty is not specifically provided, the following civil penalties are established: one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

65. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f) for Defendant's violations of California Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 226.7, 351 and 1197, and for the violations of the applicable IWC Wage Order alleged above.

66. All civil penalties sought and recovered under this action will be allocated as follows: sixty-five (65) percent to the State of California and thirty-five (35) percent to Plaintiff and aggrieved employees.

67. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees and the State of California, prays for relief against Defendant, as follows:

1. For civil penalties according to proof;

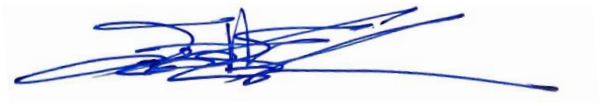
2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g),

California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs; and

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

DATED: August 25, 2025

THE WHEELER LAW FIRM, APC



By: _____

Scott Ernest Wheeler
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Attorneys for Plaintiff and the Aggrieved Employees