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Superior Court of California
County of Stanislaus
Clerk of the Court
By: Raquel Enriquez, Deputy

Attorneys for Plaintiff KARINA BROWN,
individually and on behalf of all other similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

KARINA BROWN, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

C. W. BROWER, INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. CV-22-005735

CLASS ACTION

*Assigned for all purposes to Hon. John D.
Freeland
Department: 23*

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

- 1. Failure to Pay Overtime Wages**
- 2. Failure to Pay Minimum Wages**
- 3. Wage Statement Violations**
- 4. Waiting Time Penalties**
- 5. Violation of Labor Code Section 432.7**
- 6. Violation of Labor Code Section 432.6**
- 7. Unfair Competition**
- 8. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

1 Plaintiff KARINA BROWN (“Plaintiff”), on behalf of herself and all other similarly situated
2 employees, hereby files this First Amended Complaint against Defendants C. W. BROWER, INC., a
3 California Corporation; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as
4 “Defendants”). On information and belief, Plaintiff allege the following:

5 **INTRODUCTION**

6 1. This is a class action and Private Attorneys General Act (“PAGA”) lawsuit brought by
7 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, failure to pay all final
8 wages owed, failure to provide accurate itemized wage statements, unlawfully requiring the disclosure
9 of criminal history waiving rights protecting against improperly requiring disclosure of criminal history,
10 and unfair competition.

11 **JURISDICTION AND VENUE**

12 2. The Stanislaus County Superior Court has jurisdiction in this matter pursuant to
13 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
14 Labor Code, California Business and Professions Code, and Wage Order No. 7.

15 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that
16 Defendants reside in Stanislaus County. In addition, some of the wrongful acts and violations of law
17 asserted herein occurred within Stanislaus County, and Defendants’ obligation to pay wages arose in
18 Stanislaus County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414
19 (1984).

20 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
21 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
22 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
23 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
24 (“LWDA”) on approximately December 9, 2022. Plaintiff provided facts and legal bases for his claims
25 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
26 of action. Plaintiff also submitted the \$75.00 filing fee. The December 9, 2022, notice was also sent via
27 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
28 Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies

pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of himself and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005). Aggrieved Employees include, but is not limited to the following: all hourly non-exempt employees who have or continue to work for Defendants in California from December 9, 2021 to present. For violation of labor code sections 432.6, 432.7, and 432.8, Aggrieved Employees include, but is not limited to the following: all individuals who applied to work for Defendants in California, regardless of whether or not they were ultimately hired from December 9, 2021, to present.

PARTIES

5. KARINA BROWN is an individual over the age of eighteen (18) and is a resident of the State of California.

6. On information and belief, Plaintiff alleges, C. W. BROWER, INC., is now and/or at all times mentioned in this Complaint was a California Corporation and the owner and operator of an industry, business and/or facility doing business in the State of California.

7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true names and capacities of these DOE Defendants when they are ascertained.

8. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and was acting within the course and scope of such agency or employment. The Defendants are jointly and severally liable to Plaintiff.

9. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership and common enterprise.

10. Defendants, and each of them, now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

CLASS ALLEGATIONS

12. Plaintiff brings the First through Seventh Causes of Action on behalf of herself, and all others similarly situated, as a class action pursuant to California Code of Civil Procedure section 382. The classes which Plaintiff seeks to represent is composed of, and defined, as follows:

First through Fourth and Seventh Causes of Action: All hourly non-exempt employees who have or continue to work for C.W. BROWER, INC. in California from December 14, 2018, to the present.

Fifth and Sixth Causes of Actions: All individuals who applied to work for C.W. BROWER, INC. in California, regardless of whether or not they were ultimately hire from December 14, 2019, to the present.

13. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) Numerosity: The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendants have employed as many as 100 individuals falling within the above stated class definition throughout the State of California during the applicable statute of limitations, who were subjected to the policies and practices outlined in this Complaint. As such, joinder of all members of the putative class is not practicable.

(b) Common Questions Predominate: Common questions of law and fact exist as to all members of the putative class and predominate over questions that affect only individual members of the class. These common questions of law and fact include, without limitation, the following:

(1) Whether Defendants had rounded employees' hours worked despite being able to and actually recording actual hours worked down to the minute;

- 1 (2) Whether Defendants violated the law by only paying employees for their rounded
2 hours rather than all actual hours worked, including minimum wages and
3 overtime;
- 4 (3) Whether Defendants paid the putative class members for all hours worked;
- 5 (4) Whether Defendants maintained accurate payroll records;
- 6 (5) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
7 class members were not paid all minimum and overtime wages owed;
- 8 (6) Whether, as a result of Defendants' policies and practices, Plaintiffs and putative
9 class members received all wages, due and owing, at the time of their termination
10 or separation;
- 11 (7) Whether Defendants' new hire applications and hiring documents violated the
12 Labor Code's prohibitions on requiring disclosure of criminal history and waiving
13 protections against such disclosures; and
- 14 (8) Whether Defendants provided Plaintiff's and putative class members with wage
15 statements that complied with Labor Code section 226.
- 16 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
17 class. The putative class also sustained damages arising out of Defendants' common
18 course of conduct in violation of the law as complained of herein. Plaintiff and all
19 members of the putative class were non-exempt employees who were not paid minimum
20 and overtime wages as a result of Defendants' rounding practices. Additionally,
21 Defendants issued Plaintiff and all members of the putative class wage statements that
22 did not comply with Labor Code section 226 and failed to pay these wages at termination.
23 Furthermore, the application materials and process was the same for all individuals
24 seeking employment and all improperly required disclosure of criminal history before
25 any conditional offers of employment and sought waivers of rights protecting against
26 those practices. As a result, Plaintiff and each member of the putative class will have
27 suffered the same type of harm and seek the same type of recovery based on the same
28 legal theories.

1 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
2 putative class. For all relevant times, Plaintiff resided in California and worked for
3 Defendants in California. Moreover, Plaintiff is an adequate representative of the
4 putative class as Plaintiff has no interests that are adverse to those of putative class
5 members. Additionally, Plaintiff has retained counsel who has substantial experience in
6 complex civil litigation and wage and hour matters.

7 (e) Superiority: A class action is superior to other available means for the fair and efficient
8 adjudication of the controversy since individual joinder of all members of the putative
9 class is impracticable. Class action treatment will permit a larger number of similarly
10 situated persons to prosecute their common claims in a single forum simultaneously,
11 efficiently, and without the unnecessary duplication of effort and expense that numerous
12 individual actions would engender. Further, as damages suffered by each individual
13 member of the class may be relatively small, the expenses and burden of the individual
14 litigation would make it difficult or impossible for individual members of the class to
15 redress the wrongs done to them, and an important public interest will be served by
16 addressing the matter as a class action. The cost to the court system of adjudication of
17 such individualized litigation would be substantial. Individualized litigation would also
18 present the potential for inconsistent or contradictory judgments.

19 14. Plaintiff is unaware of any difficulties that are likely to be encountered in the
20 management of this action that would preclude its maintenance as a class action.

21 **GENERAL ALLEGATIONS**

22 15. Plaintiff incorporate(s) by reference and re-allege(s) paragraphs 1 through 15 as though
23 fully set forth herein.

24 16. Plaintiff worked for Defendants from August 8, 2022, to September 9, 2022. Her hourly
25 rate was \$16.00 per hour. Prior to receiving a conditional offer of employment, Defendants required
26 Plaintiff and similarly situated employees to fill out and disclose, both directly and indirectly,
27 information regarding gang related activity, an individual's ability to be bonded, arrests, and conviction
28 history. Defendants sought new applicants and brought them in for interviews in groups, having

1 Plaintiff and similarly situated employees fill out documents that required disclosing gang related
2 activity, arrests, and conviction history. The inquiry further required Plaintiff to specify and explain any
3 convictions. The inquiry did not specify a date range that the convictions must have occurred and did
4 not specify what she did not need to include in her answer. Despite some of these documents stating
5 that a conditional offer of employment had been made, this was untrue as these documents were filled
6 out in Defendants lobby before the initial interview had even been completed. For example, Defendants
7 discussed the information contained in Plaintiff's disclosure during her first meeting and interview
8 before there was any conditional offer of employment made. Defendants also required Plaintiff and
9 similarly situated employees to sign a document waiving claims relating to Defendants securing and
10 investigating the information disclosed.

11 17. Plaintiff was employed by Defendants from August 8, 2022, to September 9, 2022. Her
12 hourly rate was \$16.00 per hour. Plaintiff's work schedule was 8:00 a.m. to 4:00 p.m. five (5) days a
13 week. Defendants had the ability to, and did, track Plaintiff and similarly situated employee's hours
14 worked down to the minute. Plaintiff and similarly situated employees clocked in and out by swiping
15 cards through a machine that logged the exact clock in/out time. Despite being able to pay the actual
16 hours worked based on readily available time records, Defendants rounded Plaintiff's and similarly
17 situated employee's hours worked and failed to pay them all minimum wages and overtime wages owed
18 for those times in which the actual hours worked was rounded down. For example, Plaintiff was not
19 paid approximately \$3.86 in unpaid overtime wages during her employment. Defendants do not have a
20 rounding policy and failed to inform Plaintiff and similarly situated employees of the rounding practices.
21 This resulted in unpaid overtime and minimum wages.

22 18. On September 23, 2022, Plaintiff emailed Defendants requesting her final check be
23 mailed to her. However, Defendants responded to Plaintiff via email requesting that she leave a
24 voicemail confirming that Defendants could mail the check and include her current mailing address,
25 despite having an email request. On September 23, 2022, Plaintiff left a voicemail for Defendants once
26 again requesting to have her check mailed to her. Defendants responded that the check would go out
27 with that day's mail. This check did not include payment for the unpaid overtime and minimum wages
28 that were lost due to rounding. On August 25, 2022, Plaintiff tested positive for COVID-19 and

1 immediately informed Defendants. Plaintiff completed a California COVID-10 Leave Application for
2 the company. Plaintiff returned to work on September 6, 2022. Plaintiff's pay for the leave due to
3 COVID-19 was forty (\$40) dollars less than what we was required to be paid. Defendants did not
4 correct this until September 28, 2022, when they sent her a letter in the mail with her check enclosed.

5 19. Defendants maintained a policy where similarly situated employees working at
6 Defendants' convenience stores were required to forfeit tips left by customers. Defendants' written
7 policy required similarly situated employees to put this money into the register, which Defendants then
8 took as part of their general revenues.

9 20. Defendants maintained a policy that paid \$500.00 to each similarly situated employee
10 that successfully passed a police decoy alcohol sting. The policy set forth specific steps that an
11 employee must perform in order to be eligible for the \$500.00 bonus. When paying these bonuses,
12 Plaintiff is informed and believes that Defendants did not incorporate the value of this payment into
13 similarly situated employees regular rate of pay for overtime purposes.

14 21. Plaintiff's wage statements did not include the inclusive dates of the period for which the
15 employee is paid. Instead, Plaintiff's wage statements only showed an end date. Plaintiff could not
16 properly confirm the accuracy of her wage statement without knowing the exact range of the statement.
17 Additionally, as a result of Defendants' failure to pay Plaintiff and similarly situated employees all
18 minimum wages and overtime wages owed, the wage statements Defendants issued were inaccurate.
19 The paystubs that Defendants issued did not itemize accurate regular and overtime hours worked,
20 premiums owed, and accurate gross and net wages earned. Consequently, Plaintiff and similarly
21 situated employees were not able to determine the total wages owed to them from their paystubs alone.

22 22. As of this date of this letter, Defendants have not paid Plaintiff and similarly situated
23 employees all minimum wages and overtime wages owed.

24 **CAUSES OF ACTION**

25 **FIRST CAUSE OF ACTION**
26 **FAILURE TO PAY OVERTIME WAGES**
(As to all Defendants)

27 23. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 22 as though fully
28 set forth herein.

1 24. During the period Plaintiff was employed by Defendants, Defendants were required to
2 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
3 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
4 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 7, section (3)(A);*
5 Cal. Lab. Code §§ 510, 1194.

6 25. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
7 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
8 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
9 worked at their regular rate of pay due to its rounding practices. *See Camp v. Home Depot U.S.A., Inc.,*
10 84 Cal.App.5th 638 (2022).

11 26. Plaintiff and similarly situated employees were not exempt from overtime protections
12 employees under the California Wage Orders and Labor Code.

13 27. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
14 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
15 the extent pertinent as if set forth here in full.

16 **SECOND CAUSE OF ACTION**
17 **FAILURE TO PAY MINIMUM WAGES**
 (As to all Defendants)

18 28. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 27 as though fully
19 set forth herein.

20 29. For the period preceding the filing of this Complaint, Defendants were required to
21 compensate Plaintiff and similarly situated employees with at least California's applicable minimum for
22 every hour worked. *See MW-Order 2019; IWC Wage Order, No. 7, section 4(A); Cal. Lab. Code §*
23 1194.

24 30. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their
25 obligation to pay the minimum wage for each hour worked but failed to do so due to its rounding
26 practices. *See Camp v. Home Depot U.S.A., Inc., 84 Cal.App.5th 638 (2022).*
27
28

1 dates of the period for which the employee is paid. Instead, Plaintiff's wage statements only showed an
2 end date. Plaintiff and similarly situated employees were not able to promptly and easily determine their
3 total hours worked from their paystubs alone. Additionally, Plaintiff and similarly situated employees
4 suffered confusion over whether they received all wages owed and were prevented from effectively
5 challenging information on their wage statements.

6 35. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
7 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
8 the extent pertinent as if set forth here in full.

9 **FOURTH CAUSE OF ACTION**
10 **WAITING TIME PENALTIES**
11 **(As to all Defendants)**

12 36. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 35 as though fully
13 set forth herein.

14 37. An employer must pay an employee who is terminated all unpaid wages immediately
15 upon termination. See Cal. Lab. Code § 201.

16 38. An employer must pay an employee who resigns all unpaid wages within seventy-two
17 (72) hours of their resignation. See Cal. Lab. Code § 202.

18 39. Plaintiff and similarly situated employees did not receive all wages, including minimum
19 and overtime wages, and meal and rest period premiums, at their termination or within the required time
20 after their separation from employment.

21 40. An employer who willfully fails to pay an employee wages in accordance with California
22 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
23 days. See Cal. Lab. Code § 203.

24 41. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
25 their final wages when their employment terminated. Indeed, Defendants knew of and actively enforced
26 its rounding practice despite being able to pay actual hours down to the minute based on time records it
27 kept for employees. Furthermore, Defendant failed to pay Plaintiff all her wages due to COVID-19
28 leave until approximately twenty days after her employment ended.

42. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE SECTION 432.7
(As to all Defendants)

43. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 42 as though fully set forth herein.

44. California Labor Code section 432.7(a)(1) makes it unlawful for an employer to ask an applicant to disclose information "concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.425, 1203.45, and 1210.1 of the Penal Code."

45. California Labor Code section 432.7(c) provides that:

If a person violates this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from that person actual damages or two hundred dollars (\$200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars (\$500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

46. Defendants inquired about Plaintiff's criminal history including felonies, misdemeanors, infractions including but not limited to traffic violations before there was any conditional offer of employment. Defendants' form of questioning is too broad and is not specific enough to inquire only about Plaintiff's relevant conviction history. Defendants' failure to narrow its questioning to specify that convictions that have been sealed, dismissed, and statutorily eradicated pursuant to law are not to be disclosed violates the statute given the broadness of the question. Thus, this was in violation of the law.

47. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

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SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE SECTION 432.6
(As to all Defendants)

48. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 47 as though fully set forth herein.

49. California Labor Code section 432.6 provides that “[a] person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right, forum, or procedure for a violation of any provision of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) or this code, including the right to file and pursue a civil action or a complaint with, or otherwise notify, any state agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation.”

50. The prohibition against waivers found in California Labor Code section 432.6 includes those found in California Government Code section 12952, which prohibits inquiry into any information related to an individual’s criminal history directly in an application or through other means directed at discovering criminal history. See Cal. Code Regs., tit. 2, § 11017.1(4).

51. Defendants inquired about Plaintiff’s criminal history including felonies, misdemeanors, infractions including but not limited to traffic violations before there was any conditional offer of employment. Defendants’ form of questioning is too broad and is not specific enough to inquire only about Plaintiff’s relevant conviction history. Defendants’ failure to narrow its questioning to specify that convictions that have been sealed, dismissed, and statutorily eradicated pursuant to law are not to be disclosed violated the law against such disclosures. A further violation occurred when Defendants also required Plaintiff and similarly situated employees to sign waivers as a condition of employment that waiver claims related to Defendants improperly requiring disclosure of criminal history.

52. As a proximate result of Defendants’ conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled “DAMAGES,” which is incorporated here to the extent pertinent as if set forth here in full.

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SEVENTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to all Defendants)

53. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 52 as though fully set forth herein.

54. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See California Business and Professions (“B&P”) Code § 17200.

55. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, during their employment as a result of Defendants’ rounding practices.

56. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163 (2000).

57. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 510 and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

EIGHTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 60 as though fully set forth herein.

59. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 7, § 3 (Failure to Pay Overtime Wages)

- Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 7, § 4 (Failure to Pay Minimum Wages)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code §§ 432.6, 432.7, and 432.8 (Limitations on Employers Regarding Inquiring Into Criminal History and Waiver Relating Thereto)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

60. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

61. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

62. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;

- 1 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
2 Code section 1194;
- 3 d. Liquidated damages pursuant to California Labor Code section 1194.2;
- 4 4. As to the Third Cause of Action:
- 5 a. Penalties as provided for in Labor Code section 226, including the greater of all
6 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
7 violation occurred and one hundred dollars (\$100.00) per employee for each
8 violation in the subsequent pay periods, but not to exceed four thousand dollars
9 (\$4,000.00);
- 10 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
11 226(e);
- 12 5. As to the Fourth Cause of Action:
- 13 a. For statutory penalties equal to Plaintiff and similarly situated employees daily
14 rate of pay multiplied by thirty (30) days;
- 15 6. As to the Fifth Cause of Action:
- 16 a. For any non-intentional violation, actual damages or two hundred dollars (\$200),
17 whichever is greater;
- 18 b. For any intentional violation, treble actual damages, or five hundred dollars
19 (\$500), whichever is greater,
- 20 c. Reasonable attorney's fees and costs;
- 21 7. As to the Sixth Cause of Action:
- 22 a. Actual damages as proven at trial;
- 23 b. declaratory relief;
- 24 c. reasonable attorney's fees and costs;
- 25 8. As to the Seventh Cause of Action:
- 26 a. Unpaid wages as proven at trial;
- 27 9. As to the Eighth Cause of Action:
- 28

- 1 a. For civil penalties as provided in the Labor Code for each enumerated
2 violation;
- 3 b. For those Labor Code sections where there is no civil penalty provided for their
4 violation, the default penalty provided in Labor Code section 2699(f): for any
5 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
6 period; For any subsequent violation, two hundred dollars (\$200) for each
7 aggrieved employee per pay period;
- 8 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 9 d. For any other remedies as allowed by law and/or deemed appropriate by the
10 Court;
- 11 10. For such other and further relief as this Court may deem just and proper,
12 including, but not limited to:
- 13 a. Wages as proved at trial;
- 14 b. Injunctive and Declaratory relief;
- 15 c. Attorney's fees and costs as provided for by law; and
- 16 d. Interest.

17
18 Dated: April 24, 2023

Shimoda & Rodriguez Law, PC

19
20 By: _____


Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Attorneys for Plaintiff

Brown v C.W. Brower, Inc.
Stanislaus County Superior Court of California CV-22-005735

**PROOF OF SERVICE — CCP §§ 1010.6, 1013a and 2015.5
and California Rules of Court, Rule 1.21, Rule 2.150, and Rule 2.251**

I, Elias Tapia, declare that:

I am a citizen of the United States and am over the age of eighteen years and not a party to the within above-entitled action.

On May 2, 2023, I served the following documents on the party below:

- FIRST AMENDED COMPLAINT FOR DAMAGES

FREEMAN MATHIS & GARY, LLP Julia A. Marquis (SBN 178466) Liam Gaarder-Feingold (SBN 345747) Dane M. Willis (SBN 327901) 1010 B Street, Suite 400 San Rafael, CA 94901 Phone: 415-394-9500 Facsimile: 833-317-0293 E-mail: jmarquis@fmglaw.com dane.willis@fmglaw.com Liam.Gaarder-Feingold@fmglaw.com Joseph.Artieres@fmglaw.com spinkham@fmglaw.com	
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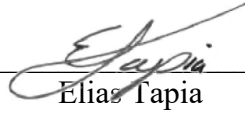
[] [By Mail] I am familiar with my employer's practice for the collection and processing of correspondence for mailing with the United States Postal Service and that each day's mail is deposited with the United States Postal Service that same day in the ordinary course of business. On the date set forth above, I served the aforementioned document(s) on the parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing on this date, following ordinary business practices, at Sacramento, California, addressed as set forth above.

[] [By Personal Service] By personally delivering a true copy thereof to the office of the addressee above.

[XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above. No error was reported by the e-mail service that I used.

[] [By Overnight Courier] By causing a true copy and/or original thereof to be personally delivered via the following overnight courier service:_____.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct, and that this declaration was executed on May 2, 2023, at Elk
3 Grove, California.

4 
Elias Tapia