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Superior Court of California
County of Los Angeles
01/04/2024

David W. Slayton, Executive Officer / Clerk of Court
By: C. Luna Deputy

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Attorneys for Plaintiffs Raquel Quijano and Ingrid Ajuchan, on behalf of themselves and all
“aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RAQUEL QUIJANO, on behalf of herself and
all “aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

CASE NO: 23PSCV01045

*Assigned to the Honorable Wesley L. Hsu,
Dept. L*

Plaintiffs,

v.

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 512, AND 2802
AND PURSUANT TO LABOR CODE §
2699(a) FOR VIOLATIONS OF LABOR
CODE §§ 226.3 AND 558**

CALIFORNIA EYE MANAGEMENT
SERVICES, L.P., a California limited
partnership, and DOES 1 through 10, inclusive,

Defendants.

Complaint Filed: April 10, 2023

1 Plaintiffs RAQUEL QUIJANO and INGRID AJUCHAN (“Plaintiffs”), on behalf of
2 themselves and others as “aggrieved employees” under the Labor Code Private Attorneys General
3 Act of 2004, complain of CALIFORNIA EYE MANAGEMENT SERVICES, L.P., a California
4 limited partnership, and/or any subsidiaries or affiliated companies (hereinafter referred to as
5 “Defendants”), as follows:

6 **I.**

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 et seq., on behalf of
9 Plaintiffs and other non-exempt California employees who currently work or formerly worked for
10 Defendants (“Aggrieved Employees”).

11 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
12 to the date Plaintiffs began the process of exhausting the administrative requirements, pursuant to
13 Labor Code § 2698 et seq., and continuing to the present (the “liability period”), Defendants have had
14 consistent policies of:

15 a. Failing to pay correct premium wages to Plaintiffs and other Aggrieved
16 Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage
17 Order No. 4-2001. Plaintiffs and Aggrieved Employees were routinely unable to take a 10-
18 minute rest period for every four (4) hours of work or major fraction thereof, but were not
19 paid premium wages of one hour’s pay for each missed rest period. Plaintiffs allege that they
20 and Aggrieved Employees were rarely able to take a rest period. Plaintiffs and other Aggrieved
21 Employees were simply denied and not authorized to take their legally entitled rest periods
22 and were never paid proper premium wages for missed rest periods. This violates Labor Code
23 § 226.7 and IWC Wage Order No. 4-2001;

24 b. Failing to pay correct premium wages to Plaintiffs and other Aggrieved
25 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512,
26 and 558 and IWC Wage Order 4-2001. Plaintiffs and Aggrieved Employees were routinely
27 denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for
28 every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-

1 minute meal period for every shift worked that exceeded ten hours, but were not paid premium
2 wages of one hour's pay for each missed first or second meal period. Plaintiffs allege that they
3 and Aggrieved Employees were rarely able to take a meal period. When Plaintiffs and
4 Aggrieved Employees were able to take a meal period, they were oftentimes late or cut short.
5 This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 4-2001;

6 c. Failing to reimburse Plaintiffs and other Aggrieved Employees for necessary
7 business expenses incurred in direct consequence of the discharge of their duties, in violation
8 of Labor Code § 2802, including, but not limited to, the use their personal automobiles, such
9 as gas, maintenance, and insurance. Labor Code § 2802 states that an employer must
10 indemnify its employees for all necessary expenditures or losses incurred by the employee in
11 direct consequence of the discharge of their duties, and Defendants' failure to do so has
12 violated this section;
13

14 d. Failing to provide Plaintiffs and other Aggrieved Employees with wage
15 statements that fully and accurately itemized the requirements set forth in Labor Code §
16 226(a). Plaintiffs and other Aggrieved Employees were not paid all wages due, as stated
17 above. As such, the wage statements provided by Defendants failed to accurately state all
18 gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked,
19 in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor
20 Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period
21 and the corresponding number of hours worked at each hourly rate, in violation of Labor Code
22 §§ 226(a)(9) and 226.3; and
23

24 e. Failing to pay Plaintiffs and Aggrieved Employees all wages due at the
25 separation of their employment based on the time frames required by Labor Code §§ 201 and
26 202. As stated above, Plaintiffs and Aggrieved Employees were not paid all wages due during
27 the course of their employment and, as a result of this failure, they were not timely paid all
28 wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is

10. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 512, AND 2802 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

11. Plaintiffs incorporate paragraphs 1 through 10 of this Complaint as though fully set forth herein.

12. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiffs seek civil penalties pursuant to Labor Code §§ 2698 *et seq.*

13. For each such violation, Plaintiffs and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 512, and 2802; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

14. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

15. On January 31, 2023 and July 18, 2023, Plaintiffs sent letters, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiffs from the LWDA

1 within sixty-five (65) calendar days of January 31, 2023 or July 18, 2023. Plaintiffs may therefore
2 commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

3 Wherefore, Plaintiffs and the Aggrieved Employees they seek to represent request relief as
4 described below.

5 V.

6 **RELIEF REQUESTED**

7 WHEREFORE, Plaintiffs pray for the following relief:

- 8 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiffs and all other
9 Aggrieved Employees;
- 10 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
11 and other applicable law;
- 12 3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable
13 law; and
- 14 4. Such other and further relief as this Court may deem just and proper.

15 Dated: January 4, 2024

Respectfully submitted,

17 GAINES & GAINES
A Professional Law Corporation

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19 By: Daniel F. Gaines
20 DANIEL F. GAINES
Attorneys for Plaintiffs

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(For messenger) my business address is:

On January 4, 2024, I served the foregoing document described as **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Diane B. Sherman, Esq. ds@shermanlaw.com LAW OFFICES OF DIANE B. SHERMAN, APC 1801 Century Park East, Ste. 1200 Los Angeles, California 90067 Attorneys for Defendant	ANTHONY J. ORSHANSKY, ESQ. anthony@counselonegroup.com JUSTIN KACHADOORIAN, ESQ. justin@counselonegroup.com COUNSELONE, PC 9301 Wilshire Blvd., Ste 650 Beverly Hills, CA 90210 Cc: Lanie Lim Lanie@CounselOneGroup.com Attorneys for Plaintiffs
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 X (BY ☐ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

_____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

____ (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic transmission via email on the counsel of record listed above.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 4, 2024, at Westlake Village, California.


JEREMY REYES