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Attorneys for Plaintiff Raquel Quijano, on behalf of herself 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.*,

Plaintiff,

v.

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

Defendants.

CASE NO: 23PSCV01045

**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**

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

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

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

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

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

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

1 wages of one hour's pay for each missed first or second meal period. Plaintiff alleges that she
2 and Aggrieved Employees were rarely able to take a meal period. When Plaintiff and
3 Aggrieved Employees were able to take a meal period, they were oftentimes late or cut short.
4 This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 4-2001;

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

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

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

9. 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

**PLAINTIFF 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**

10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set forth herein.

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

12. For each such violation, Plaintiff 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.

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

14. On January 31, 2023, Plaintiff sent a letter, 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 Plaintiff from the LWDA within sixty-five (65)

1 calendar days of January 31, 2023. Plaintiff may therefore commence this action to seek civil penalties
2 pursuant to Labor Code § 2698 *et seq.*

3 Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as
4 described below.

5 V.

6 **RELIEF REQUESTED**

7 WHEREFORE, Plaintiff prays for the following relief:

8 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff 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: April 10, 2023

Respectfully submitted,

17 GAINES & GAINES
A Professional Law Corporation

19 By: Daniel F. Gaines
20 EVAN S. GAINES
Attorneys for Plaintiff