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Electronically Filed
4/17/2023 3:12 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Emily Prom, Deputy
\$435.00 FEE PD

This case has been assigned to Judge Sandhu, Sonny S.
Department 24 All purposes including Trial.

Attorneys for Plaintiff VERONICA RODRIGUEZ,
on behalf of herself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

VERONICA RODRIGUEZ, on behalf of herself
and current and former aggrieved employees

Plaintiff,

vs.

W.W. GRAINGER, INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: CV-23-002053

PAGA ACTION

**PLAINTIFF VERONICA
RODRIGUEZ'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff VERONICA RODRIGUEZ ("Plaintiff"), who alleges and
complains against Defendants W.W. GRAINGER, INC.; and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage; overtime hours worked at the overtime rate of pay; failure to
2 pay overtime wages at the correct overtime rate; failure to provide meal breaks or pay meal break
3 premium wages; failure to pay meal break premium wages at the correct rate of pay; statutory
4 penalties for failure to provide accurate wage statements. Plaintiff seeks on a representative basis,
5 following notice to the Labor and Workforce Development Agency, civil penalties, reasonable
6 attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff,
7 the State of California, and others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to Stanislaus County, at 2710 Keystone Pacific Parkway,
17 Patterson, CA 95363.

18 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
19 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
20 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
21 tolled from April 6, 2020, until October 1, 2020.

22 **III. PARTIES**

23 4. Plaintiff brings this action as a representative of the Labor and Workforce
24 Development Agency on behalf of herself and other current and former employees subject to
25 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
26 filed include current, former and/or future employees of Defendants who work, worked, or will
27 work for Defendants as direct employees as well as temporary employees employed through temp
28 agencies as hourly non-exempt employees in California. At all times mentioned herein, the

1 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
2 employed by Defendants in an hourly position at Defendants' location in Stanislaus from in or
3 around June 2021 to present.

4 5. Plaintiff is informed and believes and thereon alleges that Defendant W.W.
5 GRAINGER, INC. is authorized to do business within the State of California and is doing
6 business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant
7 hereto were persons acting on behalf of Defendant W.W. GRAINGER, INC. in the establishment
8 of, or ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
9 W.W. GRAINGER, INC. operates in Stanislaus County and employed Plaintiff and aggrieved
10 employees in Stanislaus County, including but not limited to, at 2710 Keystone Pacific Parkway,
11 Patterson, CA 95363.

12 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
13 through 50 are corporations, or are other business entities or organizations of a nature unknown to
14 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
15 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
16 working conditions of employment of Plaintiff and aggrieved employees.

17 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
18 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
19 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
20 supervisor, independent contractor and/or employee of each defendant who violated or caused to
21 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
22 the Industrial Welfare Commission's wage orders regulating hours and days of work.

23 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
24 sues said defendants by said fictitious names, and will amend this complaint when the true names
25 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
26 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
27 named defendants is in some manner responsible for the events and allegations set forth in this
28 complaint.

9. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION

CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS

GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.

(Against all Defendants by Plaintiff)

10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11. During the period beginning one (1) year preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 204, 226, 226.7, 510, 512, 1194, and 1197, and the applicable Wage Orders.

12. Specifically, Defendants have committed the following violations of California Labor Code:

13. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

14. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the Wage Orders.

15. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

1 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
2 non-exempt employees to line up to wait to undergo and undergo off-the-clock bag checks after
3 clocking out for their meal breaks when leaving Defendants' premises for meal breaks and after
4 clocking out for the end of their shift;

5 (b) During the COVID-19 pandemic, Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees were required to line up to wait to undergo and
7 undergo off-the-clock temperature checks prior to being permitted to clock in for the start of shift;
8 and

9 (c) Since on or around November 10, 2022, Plaintiff and other current and former
10 aggrieved California-based hourly non-exempt employees are required to line up to wait to
11 undergo and undergo off-the-clock security checks prior to clocking in for the start of their shift.

12 16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
13 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
14 control without paying wages for that time. This resulted in Plaintiff and other current and former
15 aggrieved California-based hourly non-exempt employees working time for which they were not
16 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
17 Wage Order.

18 17. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
19 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
20 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
21 which includes all time that an employee is under control of the employer and all time the
22 employee is suffered and permitted to work. This includes the time an employee spends, either
23 directly or indirectly, performing services that inure to the benefit of the employer.'

24 18. Labor Code sections 510 and 1194 require an employer to compensate employees a
25 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
26 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

27 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
28 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve

(12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

19. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to line up to wait to undergo and undergo off-the-clock bag checks after clocking out for their meal breaks when leaving Defendants' premises for meal breaks and after clocking out for the end of their shift;

(b) During the COVID-19 pandemic, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were required to line up to wait to undergo and undergo off-the-clock temperature checks prior to being permitted to clock in for the start of shift; and

(c) Since on or around November 10, 2022, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees are required to line up to wait to undergo and undergo off-the-clock security checks prior to clocking in for the start of their shift.

20. Overtime is based upon an employee's regular rate of pay. "The regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

21. In this case, Plaintiff alleges that when she and other current and former aggrieved California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay due to Defendants' failure to include all remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration such as "achievement award" and "cash award," for example, when calculating Plaintiff and other current and former aggrieved California-based hourly non-exempt employees regular rate of pay for the purpose of

1 calculating and paying overtime wages.

2 22. The foregoing policies, practices, and/or procedures resulted in time during each
3 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
4 employees were under the control of Defendants but were not compensated. To the extent that the
5 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
7 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
8 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
9 sections 510 and 1194 and the applicable Wage Order.

10 23. **Failure to pay wages to hourly non-exempt employees for workdays that**
11 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
12 current and former aggrieved California-based hourly non-exempt employees regularly worked
13 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

14 24. California law requires an employer to authorize or permit an employee an
15 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
16 all duties and the employer relinquishes control over the employee's activities prior to the
17 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 1 at §11; *Brinker*
18 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
19 employee for a work period of more than ten (10) hours per day without providing the employee
20 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
21 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
22 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
23 period is only permitted when: (1) the nature of the work prevents an employee from being
24 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

25 25. If an employer fails to provide an employee a meal period in accordance with the
26 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
27 for each workday that a legally required and compliant meal period was not provided. Labor Code
28 section 226.7; Wage Order 1 at §11.

1 26. In this case, Defendants failed to authorize or permit legally required and compliant
2 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
3 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
4 limited to:

5 (a) Discouraging meal breaks by requiring Plaintiff and other current and former
6 aggrieved California-based hourly non-exempt employees to be subjected to line up to wait to
7 undergo and undergo off-the-clock bag checks if/when leaving Defendants' premises for meal
8 breaks.

9 27. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
10 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
11 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
12 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
13 employees did not receive legally required and compliant meal periods, in violation of Labor Code
14 section 226.7.

15 28. Finally, on occasions when Defendants paid Plaintiff and other current and former
16 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed,
17 short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1)
18 additional hour of pay at Plaintiff and other current and former aggrieved California-based hourly
19 non-exempt employees regular rate of compensation. Specifically, Defendants maintained a
20 policy, practice, and/or procedure of failing to include all remuneration such as "achievement
21 award" and "cash award," for example, when calculating Plaintiff and other current and former
22 aggrieved California-based hourly non-exempt employees' regular rate of pay for the purpose of
23 paying meal period premium wages.

24 29. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
25 and other current and former aggrieved California-based hourly non-exempt employees not
26 receiving wages to compensate them for workdays during which Defendants did not provide them
27 with meal periods in compliance with California law.

28 30. **Failure to timely pay earned wages during employment:** In California, wages

1 must be paid at least twice during each calendar month on days designated in advance by the
2 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
3 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
4 16th and the 26th day of that month and wages earned between the 16th and the last day,
5 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
6 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
7 paid within seven (7) calendar days following the close of the payroll period in which wages were
8 earned. Labor Code section 204(d).

9 31. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
10 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
11 exempt employees' earned wages (including minimum wages, overtime wages, and/ or meal
12 period premium wages), in violation of Labor Code section 204. Defendants' aforementioned
13 policies, practices, and/or procedures resulted in their failure to pay Plaintiff's and other current
14 and former aggrieved California-based hourly non-exempt employees' their earned wages within
15 the applicable time frames outlined in Labor Code section 204.

16 32. **Failure to provide complete and accurate wage statements:** Labor Code section
17 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
18 employee his or her wages, the employer must "furnish each of his or her employees ... an
19 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
20 employee, except for any employee whose compensation is solely based on a salary and who is
21 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
22 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
23 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
24 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
25 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
26 name of the employee and his or her social security number, (8) the name and address of the legal
27 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
28 the corresponding number of hours worked at each hourly rate by the employee."

1 33. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
2 and other current and former aggrieved California-based hourly non-exempt employees all wages
3 earned (including minimum wages, overtime wages, and/ or meal period premium wages)
4 rendered Plaintiff's and other current and former aggrieved California-based hourly non-exempt
5 employees' wage statements inaccurate, in violation of Labor Code section 226.

6 34. Defendants' violations of Wage Order 1 constituted violations of Labor Code
7 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

8 35. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
9 employee, on behalf of himself or herself and other current or former employees, to bring a civil
10 action to recover civil penalties against all Defendants pursuant to the procedures specified in
11 Labor Code section 2699.3.

12 36. Plaintiff has complied with the procedures for bringing suit specified in Labor
13 Code section 2699.3. On February 10, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
14 and provided notice to Defendants by certified mail which provided notice of the specific
15 provisions of the Labor Code alleged to have been violated, including the facts and theories to
16 support the violations alleged.

17 37. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
18 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
19 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
20 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
21 to investigate Plaintiff's claims.

22 38. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
23 penalties for Defendants' violations of Labor Code sections 204 226, 226.7, 510, 512, 1194, 1197,
24 beginning one (1) year preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to
25 the present, in the following amounts:

26 a. For violations of Labor Code sections 204, 226.7, and 512, one hundred
27 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
28 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation

[penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558] and any unpaid wages.

d. For violations of Labor Code section 1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

39. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with her claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to section 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate

1 Dated: April 17, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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3 By: 
4 _____
5 Joseph Lavi, Esq.
6 Vincent C. Granberry, Esq.
7 Courtney M. Miller, Esq.
8 Attorneys for Plaintiff
9 VANESSA RODRIGUEZ,
10 on behalf of herself and current and former
11 aggrieved employees
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