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County of Sonoma
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Attorneys for Plaintiff Andrew Fuesler, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SONOMA

ANDREW FUESLER, on behalf of himself
and all “aggrieved employees” pursuant to
Labor Code § 2698 *et seq.*,

Plaintiff,

v.

GHOST MANAGEMENT GROUP, LLC, a
Delaware limited liability company, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO: SCV-273316

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, 1174,
1174.5, 1194, AND 1198 AND PURSUANT
TO LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3
AND 558**

1 Plaintiff ANDREW FUESLER (“Plaintiff”), on behalf of himself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, codified as Labor Code §§
3 2698 *et seq.*, complains of GHOST MANAGEMENT GROUP, LLC, a Delaware limited liability
4 company, and/or any subsidiaries or affiliated companies (hereinafter referred to as “Defendants”),
5 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 Plaintiff and Defendants’ California employees misclassified as overtime-exempt, including, but not
10 limited to, Customer Success Representatives (“Misclassified Aggrieved Employees”), together with
11 its non-exempt California employees (“Non-exempt Aggrieved Employees”) (“Misclassified
12 Aggrieved Employees” and “Non-exempt Aggrieved Employees” are collectively referred to as the
13 “Aggrieved Employees”).

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

18 a. Failing to pay all overtime wages due to Plaintiff and other Misclassified
19 Aggrieved Employees, in violation of Labor Code §§ 510, 558, and 1194, and IWC Wage Order No.
20 4-2001. Defendants misclassified Plaintiff and Misclassified Aggrieved Employees as overtime-
21 exempt employees. However, Plaintiff and Misclassified Aggrieved Employees performed job duties
22 that failed to qualify them for any exemption. As a result of their misclassification, when Plaintiff and
23 Misclassified Aggrieved Employees worked in excess of eight (8) hours in a workday or in excess of
24 forty (40) hours in a workweek, they were not paid proper overtime wages of one-and-one-half times
25 the regular rate of pay, nor were they paid twice the regular rate of pay for all hours worked in excess
26 of twelve (12) in a workday or eight hours on any seventh day of a workweek. In addition, Plaintiff
27 and Non-exempt Aggrieved Employees frequently worked off-the-clock and without compensation
28

1 to complete tasks before and after their shift. These failures to pay all minimum and overtime wages
2 due constitute violations of Labor Code §§ 510, 558, 1194, and 1194.2 and IWC Wage Order 4-2001;

3 b. Failing to pay premium wages to Plaintiff and all Aggrieved Employees who
4 were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558 and IWC Wage
5 Order 4-2001. Plaintiff and all Aggrieved Employees were routinely denied, and not authorized to
6 take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five
7 hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that
8 exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or
9 second meal period. Defendants also failed to maintain records indicating the start and end time of
10 each meal period. This violates Labor Code §§ 226.7, 512, 558, 1174, 1174.5, 1198 and IWC Wage
11 Order 4-2001;

12 c. Failing to pay premium wages to Plaintiff and all Aggrieved Employees who
13 were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001.
14 Plaintiff and all Aggrieved Employees were routinely unable to take a 10-minute rest period for every
15 four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay
16 for each missed rest period. Plaintiff and all Aggrieved Employees were too busy to take all of their
17 entitled rest periods during their employment, they were frequently not authorized to take them, and
18 they were not paid premium wages in lieu thereof. Rest periods were also improperly on-duty. This
19 violates Labor Code § 226.7 and IWC Wage Order No. 4-2001;

20 d. Failing to provide Plaintiff and all Aggrieved Employees with wage statements
21 that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3.
22 Plaintiff and all Aggrieved Employees were not paid all wages due, as stated above. As such, the
23 wage statements provided by Defendants failed to accurately state all gross wages earned, in violation
24 of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2)
25 and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable
26 hourly rates in effect during the pay period and the corresponding number of hours worked, in
27 violation of Labor Code §§ 226(a)(9) and 226.3; and
28

1 e. Failing to pay all Aggrieved Employees formerly employed by Defendants all
2 wages due at the separation of their employment based on the time frames required by Labor Code §§
3 201 and 202. As stated above, Aggrieved Employees were not paid all wages due during the course
4 of their employment and, as a result of this failure, they were not timely paid all wages due at the
5 separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of those
6 Aggrieved Employees no longer employed by Defendants.

7 3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §
8 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

9 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
10 The Labor Code violations alleged against Defendants herein arose throughout California, including
11 in Sonoma County.

12 II.

13 PARTIES

14 A. Plaintiff

15 5. Plaintiff ANDREW FUESLER has been employed by Defendants since November
16 2020 in Sonoma County, California.

17 B. Defendants

18 6. Defendant GHOST MANAGEMENT GROUP, LLC is a Delaware limited liability
19 company that employed Plaintiff and Aggrieved Employees throughout California, including in
20 Sonoma County.

21 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
22 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
23 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
24 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
25 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
26 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
27 designated hereinafter as DOES when such identities become known.
28

8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

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.

III.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR
CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, 1194, AND 1198 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 penalties and other relief in an amount to be shown at the time of trial 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, 510, 512, 1174, 1174.5, 1194, and 1198; and
- b. Pursuant to Labor Code § 2699(f), the 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 March 15, 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) calendar days of March 15, 2023. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

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

IV.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

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

Dated: May 18, 2023

Respectfully submitted,

GAINES & GAINES
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