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SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

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Attorneys for Plaintiff Eleanor Jacobs, 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 HUMBOLDT**

ELEANOR JACOBS, on behalf of herself and
all "aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

WESTERN LIVING CONCEPTS, a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: **CV 2300926**

**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, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3
AND 558**

FAX FILED

1 Plaintiff Eleanor Jacobs (“Plaintiff”), on behalf of herself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of WESTERN
3 LIVING CONCEPTS, a California corporation, and any subsidiaries or affiliated companies
4 (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 California employees who currently work or formerly worked for Defendants
9 (“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 premium wages to Plaintiff and other non-exempt Aggrieved
15 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512,
16 and 558 and IWC Wage Order 4-2001. Plaintiff and other non-exempt Aggrieved Employees
17 were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute
18 meal period for every shift worked that exceeded five hours, or a second proper, timely,
19 uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were
20 not paid premium wages of one hour’s pay for each missed first or second meal period. When
21 Plaintiff and non-exempt Aggrieved Employees did take a meal period, it would typically be
22 late, cut short, or on-duty. Furthermore, regardless of whether they take a meal period or not,
23 Defendants deducted an hour of pay from Plaintiff and other non-exempt Aggrieved
24 Employees’ wages, resulting in uncompensated time. Defendants also failed to maintain meal
25 records showing the start and stop time of meal periods. This violates Labor Code §§ 226.7,
26 510, 512, 558, 1174, 1174.5, 1194, and IWC Wage Order 4-2001;

1 b. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were
2 denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001.
3 Plaintiff and non-exempt Aggrieved Employees were routinely unable to take a 10-minute
4 rest period for every four (4) hours of work or major fraction thereof, but were not paid
5 premium wages of one hour's pay for each missed rest period. Plaintiff and non-exempt
6 Aggrieved Employees were too busy to take a rest period during their employment and were
7 not paid premium wages at the correct rates in lieu thereof. Any rest periods taken were on-
8 duty and subject to Defendants' control. This violates Labor Code § 226.7 and IWC Wage
9 Order No. 4-2001;

10 c. Failing to provide Plaintiff and all other Aggrieved Employees with wage
11 statements that fully and accurately itemized the requirements set forth in Labor Code §
12 226(a). Plaintiff and other non-exempt Aggrieved Employees were not paid all premium meal
13 and rest period wages due, as stated above. As such, the wage statements provided by
14 Defendants to them failed to accurately state all gross wages earned, in violation of Labor
15 Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and
16 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable
17 hourly rates in effect during the pay period and the corresponding numbers of hours worked
18 at each rate, in violation of Labor Code §§ 226(a)(9) and 226.3. Furthermore, and independent
19 of the above allegations, the wage statements issued to Plaintiff and Aggrieved Employees
20 failed to set forth (1) an employee identification number or only the last four digits of
21 employees' social security numbers, in violation of Labor Code §§ 226(a)(7) and 226.3 (the
22 wage statements improperly set forth the entire social security number), (2) the address of the
23 legal entity that is the employer, in violation of Labor Code §§ 226(a)(8) and 226.3, and (3)
24 all hourly rates in effect during the pay period and the corresponding number of hours worked,
25 in violation of Labor Code §§ 226(a)(9) and 226.3; and
26

27 d. Failing to pay Plaintiff and certain non-exempt Aggrieved Employees all
28 wages due at the separation of their employment based on the time frames required by Labor

Code §§ 201 and 202. As stated above, Plaintiff and certain non-exempt Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and certain non-exempt Aggrieved Employees no longer employed by Defendants.

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

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

III.

PARTIES

A. Plaintiff

5. Plaintiff Eleanor Jacobs was employed by Defendants from December 2022 through January 2023 as a non-exempt employee in Humboldt County, California.

B. Defendant

6. Defendant WESTERN LIVING CONCEPTS., is a California corporation that employed Plaintiff and Aggrieved Employees in Humboldt County, California.

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

8. Plaintiff is informed and believes, and based thereon alleges, that each Defendants acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint

1 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants is
2 legally attributable to the other Defendants.

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

6 **IV.**

7 **CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**

9 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
10 **CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF**
11 **LABOR CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, AND 1194 AND**
12 **PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3**
13 **AND 558**

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

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

18 12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
19 civil penalties subject to the following formula:

20 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
21 each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512,
22 1174, 1174.5, and 1194; and

23 b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor
24 Code §§ 226.3 and 558.

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

27 14. On April 5, 2023, Plaintiff sent a letter, by online submission to the LWDA and by
28 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 April 5, 2023. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

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

V.

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: June 13, 2023

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: _____


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EVAN S. GAINES
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