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Attorneys for Plaintiff Jacqueline Martinez, 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

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

Plaintiffs,

v.

CATALINA’S SUPERMARKET, a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: 23STCV18357

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, 1194,
AND 2802 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3 AND 558**

1 Plaintiff JACQUELINE MARTINEZ (“Plaintiff”), on behalf of herself and others as an
2 “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004, complains of
3 CATALINA’S SUPERMARKET, a California corporation, and/or any subsidiaries or affiliated
4 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 Plaintiff and other Aggrieved Employees all minimum and
15 overtime wages due during the course of employment, in violation of Labor Code §§ 510, 558, and
16 1194. Defendants rounded down the hours reflected on Plaintiff’s and other Aggrieved Employees’
17 time records to pay fewer hours than were actually worked. On a weekly basis, this rounding deprived
18 Plaintiff and other Aggrieved Employees of significant hours worked and wages due. This violates
19 Labor Code §§ 510, 558, and 1194;

20 b. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
21 were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 7-2001.
22 Plaintiff and Aggrieved Employees were routinely unable to take a 10-minute rest period for every
23 four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour’s pay
24 for each missed rest period. When Plaintiff or other Aggrieved Employees were able to take a rest
25 period, they were typically late, cut short, or on-duty. This violates Labor Code § 226.7 and IWC
26 Wage Order No. 7-2001;

27 c. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
28 were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558 and IWC Wage

1 Order 7-2001. Plaintiff and Aggrieved Employees were routinely denied, and not authorized to take,
2 a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five
3 hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that
4 exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or
5 second meal period. This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 7-2001;

6 d. Failing to provide suitable seats to Plaintiff and Aggrieved Employees. Many
7 job positions reasonably permit the use of seating, but Defendants did not provide it and Aggrieved
8 Employees were not permitted to sit down during the course of their employment. This practice
9 violates California Labor Code § 1198 and Wage Order 7-2001, § 14, which provides as follows:
10 “(A) All working employees shall be provided with suitable seats when the nature of the work
11 reasonably permits the use of seats. (B) When employees are not engaged in the active duties of their
12 employment and the nature of the work requires standing, an adequate number of suitable seats shall
13 be placed in reasonable proximity to the work area and employees shall be permitted to use such seats
14 when it does not interfere with the performance of their duties”;

15 e. Failing to reimburse Plaintiff and other Aggrieved Employees for necessary
16 business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor
17 Code § 2802 and IWC Wage Order 7-2001, including, but not limited to, the cost and maintenance of
18 their uniforms. Defendants required Plaintiff and Aggrieved Employees to purchase uniforms to wear
19 while working. Plaintiff and Aggrieved Employees were not reimbursed for the cost or maintenance
20 of their uniforms. Labor Code § 2802 states that an employer must indemnify its employees for all
21 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
22 their duties. IWC Wage Order 7-2001, § 9(A) requires that “[w]hen uniforms are required by the
23 employer to be worn by the employee as a condition of employment, such uniforms shall be provided
24 and maintained by the employer.” These instances violate Labor Code § 2802 and IWC Wage Order
25 7-2001;

26 f. Failing to provide Plaintiff and other Aggrieved Employees with wage
27 statements that fully and accurately itemize the requirements set forth in Labor Code § 226(a). Plaintiff
28 and other Aggrieved Employees were not paid all wages due, as stated above. As such, the wage

statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(9) and 226.3; and

g. Failing to pay Plaintiff and other Aggrieved Employees all 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 other 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 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 in Los Angeles County, California.

II.

PARTIES

A. Plaintiff

5. Plaintiff JACQUELINE MARTINEZ was employed by Defendants from January 2014 through March 2023 as a non-exempt employee in Los Angeles County, California.

B. Defendant

6. Defendant CATALINA'S SUPERMARKET, is a California corporation that employed Plaintiff and Aggrieved Employees throughout the State of California, including Los Angeles 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

1 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
2 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
3 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
4 designated hereinafter as DOES when such identities become known.

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

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

12 III.

13 CAUSES OF ACTION

14 FIRST CAUSE OF ACTION

15 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
16 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
17 **CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1194, AND 2802 AND PURSUANT TO LABOR**
18 **CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

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

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

23 12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
24 penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

- 25 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
26 each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512,
27 1194, and 2802; and
28

b. Pursuant to Labor Code § 2699(a), 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 May 26, 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 May 26, 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.

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: August 2, 2023

Respectfully submitted,

GAINES & GAINES
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By: Daniel F. Gaines
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