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Attorneys for Plaintiff Amanda R. Davis

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

AMANDA R. DAVIS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

CHAMPION HOME BUILDERS, INC., a
Delaware corporation; UNITED STAFFING
ASSOCIATES, LLC, a limited liability
company; USA STAFFING, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: VCU298623

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
Code § 2699, et seq.].

DEMAND FOR JURY TRIAL

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1 Plaintiff Amanda R. Davis (“Plaintiff”), based upon facts that either have evidentiary
2 support or are likely to have evidentiary support after a reasonable opportunity for further
3 investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Champion Home Builders, Inc.,
6 United Staffing Associates, LLC, USA Staffing, Inc., and Does 1 through 10 (collectively referred
7 to as “Defendants”) for California Labor Code violations stemming from Defendants’ failure to
8 pay minimum wages, failure to pay overtime wages, failure to provide meal periods, failure to
9 authorize and permit rest periods, failure to maintain accurate records of hours worked and meal
10 periods, failure to timely pay all wages to terminated employees, failure to indemnify necessary
11 business expenses, and failure to furnish accurate wage statements.

12 2. For over 50 years, California’s courts and legislature have recognized that this
13 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
14 Wages are not ordinary debts. Because of the economic position of the average worker and his or
15 her family, it is essential to the public welfare that employers obey the wage-and-hour laws so that
16 employees are promptly paid the minimum/overtime wages that the Legislature has required for
17 employees. So fundamental are California’s wage-and-hour laws that the Legislature has
18 criminalized certain types of violations. In extending extra protection to deter violations of these
19 underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution or
20 other damages other than civil penalties—California has enacted the PAGA to permit an individual
21 to bring an action for PAGA penalties only, which is the precise and sole nature of this action.

22 3. All non-exempt California employees of Defendants beginning May 25, 2022 to the
23 present, are “Aggrieved Employees.”

24 4. Plaintiff brings this action against Defendants seeking only to recover penalties on
25 behalf of all Aggrieved Employees that worked for Defendants, and on behalf of the State of
26 California. Plaintiff does not seek to recover anything other than penalties as permitted by
27 California Labor Code Section 2699 at this time. To the extent that statutory violations are
28 mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages

1 for those violations, but simply penalties as permitted by California Labor Code Section 2699,
2 declaratory relief, and injunctive relief for themselves and all aggrieved employees as permitted
3 by the PAGA.

4 5. Defendants own/owned and operate/operated an industry, business, and
5 establishment within the State of California, including Tulare County. As such, and based upon all
6 the facts and circumstances incident to Defendants' business in California, Defendants are subject
7 to the California Labor Code, and Wage Orders issued by the Industrial Welfare Commission
8 ("IWC").

9 6. Despite these requirements, throughout the statutory period Defendants maintained
10 a systematic, company-wide policy and practice of:

- 11 (a) Failing to pay employees for all hours worked, including all minimum
12 wages, and overtime wages in compliance with the California Labor Code
13 and IWC Wage Orders;
 - 14 (b) Failing to provide employees with timely and duty-free meal periods in
15 compliance with the California Labor Code and IWC Wage Orders, failing
16 to maintain accurate records of all meal periods taken or missed, and failing
17 to pay an additional hour's pay for each workday a meal period violation
18 occurred;
 - 19 (c) Failing to authorize and permit employees to take timely and duty-free rest
20 periods in compliance with the California Labor Code and IWC Wage
21 Orders, and failing to pay an additional hour's pay for each workday a rest
22 period violation occurred;
 - 23 (d) Failing to indemnify employees for necessary business expenses incurred;
 - 24 (e) Willfully failing to pay employees all minimum wages, overtime wages,
25 meal period premium wages, and rest period premium wages due within the
26 time period specified by California law when employment terminates; and
 - 27 (f) Failing to maintain accurate records of the hours that employees worked.
- 28

(g) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders.

7. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

8. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiff and the Aggrieved Employees. Further, Defendants are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior".

THE PARTIES

A. Plaintiff

9. Plaintiff is a California resident that worked for Defendants in the County of Tulare, State of California, as a janitor from approximately October 2021 to August 2022.

10. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendants

11. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendants Champion Home Builders, Inc., United Staffing Associates, LLC, and USA Staffing, Inc. are:

- (a) Business entities with their principal place of business in Tulare, California.
- (b) Business entities conducting business in numerous counties throughout the State of California, including in Tulare County;
- (c) The former employers of Plaintiff, and the current and/or former employers of the Aggrieved Employees. Defendants suffered and permitted Plaintiff

and the Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions;

(d) At all times mentioned herein, Defendants are and were the joint employers of Plaintiff and the Aggrieved Employees.

12. Plaintiff does not currently know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

13. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of California.

14. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the aggrieved employees definition above, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

1 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

2 15. Plaintiff is a California resident who worked for Defendants in the County of Tulare,
3 State of California, as a janitor during the statutory period. During the statutory time period,
4 Plaintiff was a non-exempt employee, and was typically scheduled to work at least 5 days in a
5 workweek, and typically in excess of 8 hours in a single workday.

6 16. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
7 worked (including minimum wages and overtime wages), failed to provide Plaintiff with
8 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest
9 periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all final
10 wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
11 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
12 Defendants was typical and illustrative.

13 17. Throughout the statutory period, Defendants maintained a policy and practice of not
14 paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages.
15 During the statutory period, Plaintiff and the Aggrieved Employees were required to work "off
16 the clock" and uncompensated. For example, Plaintiff and the Aggrieved Employees were required
17 to arrive to work early, but were only paid for their scheduled shift. Further, Plaintiff and the
18 Aggrieved Employees continued to work after their scheduled shift, but were not paid for that time.
19 Also during the statutory period, Defendants included the entire social security number in wage
20 statements, in violation of California law.

21 18. Throughout the statutory period, Defendants have wrongfully failed to provide
22 Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants
23 sometimes, but not always, required Plaintiff and the Aggrieved Employees to work in excess of
24 five consecutive hours a day without providing 30-minute, continuous and uninterrupted, duty-free
25 meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved
26 Employees for meal periods that were not provided by the end of the fifth hour of work or tenth
27 hour of work. Defendants also did not adequately inform Plaintiff and the Aggrieved Employees
28 of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than

1 10 hours, by the end of the tenth hour of work. Defendants also failed to accurately record meal
2 periods. Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff
3 and the Aggrieved Employees in compliance with California law.

4 19. Throughout the statutory period, Defendants have wrongfully failed to authorize
5 and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
6 Defendants sometimes, but not always, required Plaintiff and the Aggrieved Employees to work in
7 excess of four consecutive hours a day without Defendants authorizing and permitting them to take
8 a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or major
9 fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest
10 periods that were not authorized or permitted. Defendants also did not adequately inform Plaintiff
11 and the Aggrieved Employees of their right to take a rest period. Moreover, Defendants did not
12 have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the
13 Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the timing
14 of rest periods. Defendants also did not have adequate policies or practices to verify whether
15 Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendants
16 did not maintain accurate records of employee work periods, and therefore Defendants cannot
17 demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of
18 each work period. Accordingly, Defendants' policy and practice was to not authorize and permit
19 Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

20 20. Throughout the statutory period, Defendants wrongfully required Plaintiff and the
21 Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for
22 Defendants without reimbursement, such as masks and the use of personal cellular telephones for
23 work purposes.

24 21. Throughout the statutory period, Defendants willfully failed and refused to timely
25 pay Plaintiff and the Aggrieved Employees at the conclusion of their employment all wages for all
26 minimum wages, overtime wages, meal period premium wages, and rest period premium wages.
27 Further, Defendants did not pay Plaintiff and the Aggrieved Employees their final paychecks
28 immediately upon termination.

1 22. Throughout the statutory period, Defendants failed to furnish Plaintiff and the
2 Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates,
3 and all gross and net wages earned (including correct hours worked, correct wages earned for hours
4 worked, correct overtime hours worked, correct wages for meal periods that were not provided in
5 accordance with California law, correct wages for rest periods that were not authorized and
6 permitted to take in accordance with California law, and Defendant's address). Further, the wage
7 statements do not show Defendant's address as required by California law. As a result of these
8 violations of California Labor Code § 226(a), the Plaintiff and the Aggrieved Employees suffered
9 injury because, among other things:

- 10 (a) the violations led them to believe that they were not entitled to be paid
11 minimum wages, overtime wages, meal period premium wages, and rest
12 period premium wages to which they were entitled, even though they were
13 entitled;
- 14 (b) the violations led them to believe that they had been paid the minimum,
15 overtime, meal period premium, and rest period premium wages, even
16 though they had not been;
- 17 (c) the violations led them to believe they were not entitled to be paid minimum,
18 overtime, meal period premium, and rest period premium wages at the
19 correct California rate even though they were;
- 20 (d) the violations led them to believe they had been paid minimum, overtime,
21 meal period premium, and rest period premium wages at the correct
22 California rate even though they had not been;
- 23 (e) the violations hindered them from determining the amounts of minimum,
24 overtime, meal period premium, and rest period premium owed to them;
- 25 (f) in connection with their employment before and during this action, and in
26 connection with prosecuting this action, the violations caused them to have
27 to perform mathematical computations to determine the amounts of wages
28

owed to them, computations they would not have to make if the wage statements contained the required accurate information;

(g) by understating the wages truly due them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;

(h) the wage statements inaccurately understated the wages, hours, and wages rates to which Plaintiff and the Aggrieved Employees were entitled, and Plaintiff and the Aggrieved Employees were paid less than the wages and wage rates to which they were entitled.

Thus, Plaintiff and the Aggrieved Employees are owed the amounts provided for in California Labor Code § 226.3.

FIRST CAUSE OF ACTION

(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 et seq.)

23. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 22 in this First Amended Complaint.

24. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

25. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

26. Plaintiff has exhausted her administrative remedies pursuant to California Labor Code § 2699.3. On May 21, 2023, Plaintiff gave written notice by online filing to the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of

1 the Labor Code that Defendants have violated against Plaintiff and current and former aggrieved
2 employees, including the facts and theories to support the violations. At the time of this filing, 65
3 days has elapsed since Plaintiff provided notice, but the Labor and Workforce Development
4 Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed
5 in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties under Labor
6 Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint.
7 These penalties include, but are not limited to, penalties under California Labor Code §§ 210,
8 226.3, 558, 1197.1, and 2699(f)(2).

9 27. In addition, Plaintiff seeks penalties for Defendants' violation of California Labor
10 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
11 employing labor who willfully fails to maintain accurate and complete records required by
12 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
13 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins
14 and ends each work period. Meal periods, and total hours worked daily shall also be recorded.
15 Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall keep total
16 hours worked in the payroll period and applicable rates of pay.

17 28. During the time period of employment for Plaintiff and the Aggrieved Employees,
18 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
19 maintain accurate records showing meal periods, and accurate records showing when employees
20 begin and end each work period. Defendants' failure to provide and maintain records required by
21 the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to
22 know, understand and question the accuracy and frequency of meal periods, and the accuracy of
23 their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved
24 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
25 unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved
26 Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment
27 of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel
28 Defendants to fully perform its obligation under state law, all to their respective damage in amounts

1 according to proof at trial. Because of Defendants' knowing failure to comply with the Labor Code
2 and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an
3 injury in that they were prevented from knowing, understanding, and disputing the wage payments
4 paid to them.

5 29. Based on the conduct described in this First Amended Complaint, Plaintiff is entitled
6 to an award of civil penalties on behalf of herself, the State of California, and similarly Aggrieved
7 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
8 be shown according to proof at trial. These penalties are in addition to all other remedies permitted
9 by law.

10 30. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs pursuant
11 to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action
12 shall be entitled to an award of reasonable attorney's fees and costs."

13 **PRAYER FOR RELIEF**

14 Plaintiff, on behalf of herself, the State of California, and similarly Aggrieved Employees
15 of Defendants, prays for relief and judgment against Defendants, jointly and severally, as follows:

16 **As to the First Cause of Action**

17 31. That the Court declare, adjudge and decree that Defendants violated the California
18 Labor Code by failing to pay wages for all hours worked (including minimum, regular rate, and
19 overtime wages), failing to provide meal periods, failing to maintain accurate records of meal
20 periods, failing to authorize and permit rest periods, failing to maintain accurate records of all
21 hours worked and meal periods, failing to pay final wages at termination, and failing to furnish
22 accurate wage statements;

23 32. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all
24 other applicable Labor Code provisions;

25 33. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
26 California Labor Code § 2699;

27 34. For such other and further relief as the Court may deem equitable and appropriate.
28

1
2 Dated:October 26, 2023

Respectfully submitted,

3 MOON LAW GROUP, PC

4
5 By: 

Kane Moon
Lilit Astvatsatryan
Attorneys for Plaintiff

7
8 **DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all causes of action triable by jury.

9
10 Dated: October 26, 2023

MOON LAW GROUP. PC

11
12 By: 

Kane Moon
Lilit Ter-Astvatsatryan
Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not
4 a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

5 On the date indicated below, I served the document described as: **FIRST AMENDED**
6 **REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by sending []
7 the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the
8 attached service list:

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[✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by
e-mail delivery on the parties listed herein at their most recent known e-mail address from e-
mail kcastillo@moonlawgroup.com pursuant to California Rules of Court. I did not receive,
within a reasonable time after the transmission, any electronic message or other indication that
the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true
and correct. Executed this **October 26, 2023** at Los Angeles, California.

Karen Castillo
Type or Print Name


Signature