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Superior Court of California,
Sacramento
09/20/2023
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By _____, Deputy
23CV008823

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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

CECILIA LOMELI,

Plaintiff,

vs.

KPB IMMIGRATION LAW FIRM PC, a
California Corporation; KEROSKY,
PURVES, & BOGUE, LLP, Limited Liability
Partnership; WILSON PURVES, an
individual; and DOES 1 to 100, inclusive,

Defendants.

Case No.

COMPLAINT FOR CIVIL PENALTIES:

1. Private Attorneys General Act

1 Plaintiff CECILIA LOMELI (“Plaintiff”), on behalf of herself hereby files this Complaint
2 against Defendants KPB IMMIGRATION LAW FIRM PC, a California Corporation; KEROSKY,
3 PURVES, & BOGUE, LLP, Limited Liability Partnership; WILSON PURVES, Individual; and
4 DOES 1 to 100, inclusive (hereinafter all collectively referred to as “Defendants”). On information
5 and belief, Plaintiff allege the following:

6 **INTRODUCTION**

7 1. This is a Private Attorneys General Act (“PAGA”) lawsuit brought by Plaintiff based on
8 the following violations of the California Labor Code including failure to provide overtime wages,
9 failure to provide minimum wages, meal and rest period violations, failure to provide accurate wage
10 statements, failure to pay final wages, failure to pay reimbursement for expenses, violation of Labor
11 Code section 558, and failure to maintain accurate records.

12 **JURISDICTION AND VENUE**

13 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
14 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
15 Labor Code and Wage Order No. 4.

16 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that wrongful
17 acts and violations of law asserted herein occurred within Sacramento County, and Defendants'
18 obligation to pay wages and comply with the California Labor Code provisions at issue were to be
19 performed in, and arose in Sacramento County pursuant to *Madera Police Officers Assn. v. City of*
20 *Madera*, 36 Cal.3d 403, 414 (1984).

21 4. Plaintiff has sought permission pursuant to California Labor Code section 2699 *et seq.* to
22 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
23 of herself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
24 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
25 (“LWDA”) on approximately May 12, 2023. Plaintiff provided facts and legal bases for her claims
26 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
27 of action. Plaintiff also submitted the \$75.00 filing fee. The May 12, 2023, notice was also sent via
28 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to

1 Plaintiff's notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
2 pursuant to the Private Attorneys General Act ("PAGA") and may bring this action on behalf of herself
3 and all similarly situated employees, *i.e.* Aggrieved Employees. See Cal. Lab. Code § 2699.3(a)(2)(A),
4 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).
5 Aggrieved Employees include, but is not limited to, the following: all employees who have worked, or
6 continue to work, for Defendants in California as hourly and misclassified, salaried employees.

7 **PARTIES**

8 5. CECILIA LOMELI is an individual over the age of eighteen (18) and is a resident of
9 the State of California.

10 6. On information and belief, Plaintiff alleges, KPB IMMIGRATION LAW FIRM PC,
11 is now and/or at all times mentioned in this Complaint was a California Corporation and the owner
12 and operator of an industry, business and/or facility doing business in the State of California.

13 7. On information and belief, Plaintiff alleges, KEROSKY, PURVES, & BOGUE, LLP,
14 is now and/or at all times mentioned in this Complaint was Limited Liability Partnership and the
15 owner and operator of an industry, business and/or facility doing business in the State of California.

16 8. On information and belief, Plaintiff alleges, WILSON PURVES, is now and/or at all
17 times mentioned in this Complaint was Individual and the owner and operator of an industry,
18 business and/or facility doing business in the State of California.

19 9. On information and belief, Plaintiff alleges that WILSON PURVES is an owner,
20 director, officer, and/or managing agent of KPB IMMIGRATION LAW FIRM PC and KEROSKY,
21 PURVES, & BOGUE, LLP, responsible for causing the violations outlined in the first through
22 seventh causes of action. As such WILSON PURVES is individually liable pursuant to California
23 Labor Code section 558.1. Pursuant California Labor Code section 558.1, KPB IMMIGRATION
24 LAW FIRM PC, KEROSKY, PURVES, & BOGUE, LLP, and WILSON PURVES are jointly and
25 severally liable for each cause of action asserted herein. On information and belief, Plaintiff alleges
26 that WILSON PURVES trained subordinate staff to implement and carry out the policies and
27 practices identified herein. As a result, whether directly or indirectly, WILSON PURVES caused the
28 violations identified herein. WILSON PURVES was responsible for the violations stated herein as

1 he was in a position of authority with the power and responsibility to monitor, institute, and/or
2 modify the unlawful practices, but chose to ratify them instead.

3 10. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
4 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
5 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
6 names and capacities of these DOE Defendants when they are ascertained.

7 11. At all times mentioned herein, each Defendant was the agent or employee of each of the
8 other Defendants and was acting within the course and scope of such agency or employment. The
9 Defendants are jointly and severally liable to Plaintiff.

10 12. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
11 were members of and/or engaged in a joint employment, joint venture, partnership and common
12 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
13 joint venture, partnership and common enterprise.

14 13. Defendants, and each of them, now and/or at all times mentioned in this Complaint
15 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

16 14. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
17 wrongs, complaints, injuries and/or damages alleged in this Complaint.

18 **GENERAL ALLEGATIONS**

19 15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully
20 set forth herein.

21 16. Plaintiff was employed with Defendants from December 9, 2019, to December 6, 2022.
22 KPB Immigration Law Firm PC is an immigration law firm that provides immigration services with
23 offices in San Francisco, Los Angeles, Santa Rosa, San Jose, Sacramento, Walnut Creek, Napa, and San
24 Rafael, California. Prior to September 2020, KPB IMMIGRATION LAW FIRM PC was known as
25 KEROSKY, PURVES, & BOUGE, LLP. When Plaintiff was hired, Defendants' name was KEROSKY,
26 PURVES, & BOUGE, LLP. Plaintiff's job title was case manager. Initially, Plaintiff was paid hourly at
27 a rate of \$26 per hour.
28

1 17. Plaintiff and Aggrieved Employees worked over eight (8) hours per day and over forty
2 (40) hours per week. Plaintiff assisted three attorneys with day-to-day activities, which included two
3 associate attorneys and the KPB Immigration Law Firm PC's manager and Chief Executive Officer,
4 Wilson Purves. However, most of the time, Plaintiff assisted four associate attorneys with their day-to-
5 day tasks. Defendants assigned approximately three hundred (300) cases to Plaintiff to work and assist
6 on.

7 18. Plaintiff performed non-exempt duties more than 50% of the time, such as working as a
8 front desk receptionist by meeting walk in clients and taking phone calls from clients as well as potential
9 clients, scheduling appointments for attorney consultations and/or client meetings, translating documents
10 from Spanish to English, translating attorney client communications, talking to clients regarding the
11 status of their case or communicating attorney messages for clients, filling out immigration application
12 for clients as directed, scheduling immigration court hearings and/or confirming immigration hearings,
13 filing different legal documents with the immigration court, helping attorneys with filings and
14 formatting certain legal documents, travel to other offices to pick up client files or meet with clients,
15 acquiring signatures from clients for immigration legal documents and applications, acquiring and
16 processing payment from clients for Defendants' services, dropping off documents to clients or driving
17 to local post office to mail documents to clients, meeting and greeting clients, providing attorneys with
18 client applications for review, call immigration offices for status updates such as for pending
19 applications or cases, scheduling deadlines and filing required court or immigration documents by the
20 required deadlines, and setting up psychological evaluations for clients. Other Aggrieved Employees
21 performed the same tasks as Plaintiff for more than 50% of their total workday.

22 19. Plaintiff worked in a high volume, fast-paced environment where she had to talk to
23 clients and assist attorneys in meeting deadlines all the time. As a result, Plaintiff worked regularly off
24 the clock. Plaintiff is informed and believes that other Aggrieved Employees worked off the clock as
25 well. Clients and potential clients called after business hours and on weekends to talk about their case
26 and things that were needed in their case. Furthermore, attorneys and Defendants' staff would contact
27 Plaintiff and Aggrieved Employees after work regarding work issues or tasks. Sometimes, attorneys
28 would contact Plaintiff at 5:00 a.m., 6:00 a.m., or 11:00 p.m. at night with requests or questions

1 regarding cases. Attorneys and staff would contact Plaintiff via Google Chat App, work email, or texts.
2 Clients and potential clients would call or texts Plaintiff via different cell phone apps such as WhatsApp.
3 Sometimes, Plaintiff was also on call, taking phone calls from clients who had emergencies such as
4 deportations. Defendants were aware that Plaintiff and Aggrieved Employees worked off the clock
5 work because Defendants' staff and attorneys contacting Plaintiff after business hours regularly.
6 Plaintiff worked approximately two (2) hours per week off the clock assisting attorneys and talking to
7 clients. Defendants did not pay Plaintiff and Aggrieved Employees for off-the-clock work that they
8 performed outside regular business hours.

9 20. Furthermore, Plaintiff and Aggrieved Employees worked overtime because of the high
10 volume of cases and the high demand of the job. However, Defendants required Plaintiff and Aggrieved
11 Employees to request authorization prior to working overtime. Defendants did not pay overtime if it was
12 not pre-authorized even where it was Plaintiff's and similarly situated employees' supervisors contacting
13 them and requiring the off-the-clock work to be performed. Plaintiff is informed and believes that
14 Defendant's Human Resources employee would change the hours in the timecards to remove overtime
15 hours worked. Plaintiff and Aggrieved Employees were not paid overtime for all overtime hours
16 worked. For example, Defendants denied paying Plaintiff overtime for hours worked because
17 Defendants claimed that Plaintiff did not receive approval for overtime. Defendants' overtime policy
18 states on page 66 of Defendants' Employee Handbook that "employees need to request overtime at least
19 24 hours in advance and 48 hours in advance of the pay period." Plaintiff and Aggrieved Employees
20 were usually asked to finish tasks, deadlines, filings, or other important assignments on the same day
21 which made it impossible for them to request overtime 24 hours in advance, let alone 48 hours. Usually,
22 associate attorneys would ask Plaintiff and Aggrieved Employees to finish certain tasks which would
23 require them to stay and work overtime. In some instances, Plaintiff would remind associate attorneys
24 that they needed to communicate let HR know that Plaintiff's overtime was approved. However, many
25 times, the associates would inform Plaintiff that they would ask another case manager for help instead,
26 resulting in Plaintiff working overtime which would not be authorized since Plaintiff had already
27 worked a certain amount of overtime before associates informed her of transferring the task to someone
28

1 else. Plaintiff worked approximately two (2) hours of unpaid overtime per week. Defendants failed to
2 pay Plaintiff and Aggrieved Employees for all overtime hours worked.

3 21. Defendants were aware that Plaintiff and Aggrieved Employees worked overtime and
4 that they were not being paid for overtime hours worked. In fact, Plaintiff spoke to Defendants' Chief
5 Executive Officer, Wilson Purves, regarding the unpaid overtime and asked Defendants' CEO for a
6 raise. At that time, Defendants' CEO gave Plaintiff a raise and classified Plaintiff and at least another
7 case manager as salary exempt. However, Plaintiff and Aggrieved Employees continued to perform the
8 same non-exempt duties more than 50% of their total workday.

9 22. Plaintiff started receiving a salary from February 1, 2022, until her termination of
10 employment. Plaintiff performed the same non-exempt tasks and duties as prior to being classified as
11 salary exempt. Also, Plaintiff's job title and duties did not change at all. Defendants did not require
12 Plaintiff to perform any other exempt duties or tasks. Plaintiff's work schedule and hours remained
13 consistent throughout her tenure with Defendants. Plaintiff is informed and believes that similarly
14 situated employees' work schedule and hours remained consistent throughout their tenure with
15 Defendants also. Plaintiff spent approximately 90-100% of her hours worked performing non-exempt
16 duties as opposed to management, executive, or administrative duties. Plaintiff and Aggrieved
17 Employees did not manage any employees or subordinates and continued to perform non-exempt, non-
18 managerial and non-supervisory duties. Plaintiff and Aggrieved Employees did not have the authority to
19 hire and fire staff. Plaintiff was always under the supervision of attorneys and other managers and did
20 not regularly exercise discretion and independent judgment in performing her duties and tasks since she
21 was only assisting attorneys with legal assistant tasks. Plaintiff was involved in Defendants' day-to-day
22 operations and her primary duty was to assist attorneys with legal assistant tasks and not administer the
23 business affairs of the firm. Furthermore, Plaintiff continued to perform the same amount of workload
24 and hours as prior to being misclassified as salary exempt. Plaintiff is informed and believes that
25 Aggrieved Employees continued to perform the same amount of workload and hours as prior to being
26 misclassified. Relying on Plaintiff's and similarly situated employees' misclassification as exempt
27 employees, Defendants did not pay Plaintiff and Aggrieved Employees for any overtime hours worked
28 or off the clock work after the salary exempt classification.

1 23. Also, Defendants did not provide Plaintiff and Aggrieved Employees with compliant
2 meal and rest periods. Plaintiff and Aggrieved Employees were unable to take uninterrupted meal and
3 rest breaks. Attorneys would ask Plaintiff and Aggrieved Employees for help with filings, phone calls,
4 deadlines, or other emergency tasks that needed attention during Plaintiff and similarly situated
5 employees' meal and rest periods. This occurred approximately 40% of the time during Plaintiff's
6 tenure with Defendants. Undoubtedly, relying on Plaintiff's and similarly situated employees'
7 misclassification as salaried-exempt employees, Defendants stopped keeping records of Defendants' and
8 similarly situated employees' hours worked and meal periods.

9 24. Defendants also required Plaintiff and Aggrieved Employees to use their personal cell
10 phones for work purposes. Plaintiff and Aggrieved Employees used their personal cell phones to
11 communicate with managers, attorneys, clients, and other Aggrieved Employees regarding work issues
12 via Google Chat, work email, and texts. For example, Plaintiff and another case manager that worked at
13 the Sacramento office used their personal cell phones all the time during the first three or four months of
14 employment because the Sacramento office did not have a phone. Plaintiff and Aggrieved Employees
15 received phone calls and texts from clients and staff even after the Sacramento office obtained a phone
16 line. Plaintiff used her personal cell phone for about 50% of the time. Plaintiff pays approximately
17 \$252 per month for her family plan cell phone bill, which would equate to about \$62 per phone line.
18 Moreover, Plaintiff and Aggrieved Employees worked from home during the COVID pandemic.
19 Defendants did not provide any phones, printers, ink, or paper during the pandemic to Plaintiff and
20 similarly situated employees. Plaintiff's internet monthly bill is approximately \$100 per month. Also,
21 Plaintiff and Aggrieved Employees had to use their personal printers, buy toner and/or ink for printers,
22 as well as paper for printing during the COVID-pandemic time. Defendants did not reimburse Plaintiff
23 and Aggrieved Employees for such work-related expenses. In addition, Defendants were aware that
24 Plaintiff and Aggrieved Employees used their cell phones and printer for work purposes because they
25 communicated with Plaintiff and Aggrieved Employees during and after business hours. Defendants
26 also knew that Plaintiff received many phone calls from clients on her cell phone because Plaintiff
27 informed Defendants many times. Defendants knew that Plaintiff and Aggrieved Employees were using
28 their printers because attorneys mentioned many times to Plaintiff during the COVID-pandemic that it

1 wasn't right for Plaintiff and Aggrieved Employees to use their own printers and papers for work
2 purposes. Defendants did not reimburse Plaintiff or Aggrieved Employees for these expenses.

3 25. As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees all overtime,
4 off the clock hours, and meal and rest period premiums owed, the wage statements Defendants issued
5 were inaccurate. The paystubs that Defendants issued did not accurately itemize all hours worked, the
6 overtime wages earned, the number of meal and rest period premiums owed, and the accurate gross and
7 net wages earned.

8 26. As of this date of this letter, Defendants has not paid Plaintiff and Aggrieved Employees
9 all minimum wages, overtime wages, meal and rest period premiums, and reimbursement expenses
10 owed to them.

11 27. Plaintiff is informed and believes that there are approximately seventeen (17) Aggrieved
12 Employees throughout the PAGA Period, which runs from May 12, 2022, to September 12, 2023, who
13 worked a total of 442 pay periods during this time. Plaintiff is informed and believes that there are
14 approximately five (5) formerly employed Aggrieved Employees during the PAGA Period. Plaintiff is
15 informed and believes that other Aggrieved Employees were paid at the same rate as her initial hourly
16 rate of \$26 per hour.

17 28. Plaintiff is informed and believes that Defendants committed overtime violations and
18 minimum wage violations in 100% of the pay periods within the PAGA Period. Plaintiff is informed
19 and believes that Defendants committed meal and rest period violations in at least 40% of the pay
20 periods within the PAGA Period. Plaintiff is informed and believes that Defendants committed
21 violations in 100% of the pay periods for failure to reimburse expenses, failure to provide accurate wage
22 statements, and for failure to keep accurate records.

23 29. Defendant KPB IMMIGRATION LAW FIRM PC identified Defendant WILSON
24 PURVES in its filings with the California Secretary of State from September 28, 2020, to the present as
25 its President, Chief Executive Officer, Secretary, and Chief Financial Officer. Plaintiff is informed and
26 believes that WILSON PURVES was responsible for creating and electing to implement KPB
27 IMMIGRATION LAW FIRM PC's payroll and compensation policies and practices or that WILSON
28 PURVES was aware of such policies and practices and ratified them. Plaintiff is informed and believes

1 that prior to September 28, 2020, WILSON PURVES was the President, Chief Executive Officer,
2 Secretary, and Chief Financial Officer of Defendant KEROSKY, PURVES, & BOGUE, LLP, and was
3 responsible for creating and electing to implement KEROSKY, PURVES, & BOGUE, LLP's payroll
4 and compensation policies and practices or that WILSON PURVES was aware of such policies and
5 practices and ratified them.

6 **CAUSES OF ACTION**
7 **FIRST CAUSE OF ACTION**
8 **PRIVATE ATTORNEYS GENERAL ACT**
9 **(As to all Defendants)**

10 30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though fully
11 set forth herein.

12 31. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
13 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
14 current and former employees:

- 15 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime
16 Wages)
- 17 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay
18 Minimum Wages)
- 19 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B)
20 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 21 • Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest
22 Periods or Pay Premiums in Lieu Thereof)
- 23 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- 24 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- 25 • Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- 26 • Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of
27 Work in Any Industrial Welfare Commission Order)
- 28 • Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

32. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

33. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

34. Plaintiff is informed and believes that there were overtime violations in 100% of the pay periods within the PAGA Period. There are 442 total pay periods in the PAGA Period. The penalty for initial overtime violations is \$50 multiplied by 442 pay periods, resulting in \$22,100 in PAGA penalties for overtime violations.

35. Plaintiff is informed and believes that there were minimum wage violations in 100% of the pay periods within the PAGA Period. There are 442 total pay periods in the PAGA Period. The penalty for the initial minimum wage violations is \$100 multiplied by 442 pay periods, resulting in \$44,200 in PAGA penalties for minimum wage violations.

36. Plaintiff is informed and believes that there were meal period violations in 40% of the pay periods within the PAGA Period. Thus, there are approximately 177 pay periods at issue for this claim in the PAGA Period. The penalty for the initial meal period violations is \$50 multiplied by 177 pay periods, resulting in \$8,850 in PAGA penalties for meal period violations.

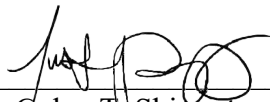
37. Plaintiff is informed and believes that there were rest period violations in 40% of the pay periods within the PAGA Period. Thus, there are approximately 177 pay periods at issue for this claim in the PAGA Period. The penalty for the initial rest period violations is \$100 multiplied by 177 pay periods, resulting in \$17,700 in PAGA penalties for rest period violations.

38. Pursuant to California Labor Code section 256, the civil penalty for waiting time penalty violations is calculated the same as under California Labor Code section 203, which is the employee's daily rate for each day wages owed remain unpaid after separation for up to thirty (30) days. Thus, Plaintiff and the Aggrieved Employees' daily rate is at least \$208 (\$26 x 8 hours). Plaintiff is informed and believes that Defendants did not pay her and other formerly employed Aggrieved Employees for the entire thirty (30) day period, resulting in a total civil penalty of \$31,200 (\$6,240 x 5).

- 1 d. \$10,000 in costs for administering any PAGA judgment, including the distribution
2 of funds and tax reporting;
3 e. \$10,000 as an enhancement payment to Plaintiff for her work in the case and
4 securing a benefit on behalf of Aggrieved Employees and the Labor and
5 Workforce Development Agency.
6 f. For any other remedies as allowed by law and/or deemed appropriate by the
7 Court.

8 Dated: September 20, 2023

Shimoda & Rodriguez Law, PC

9
10 By: 
11 Galen T. Shimoda
12 Justin P. Rodriguez
13 Renald Konini
14 Attorneys for Plaintiff
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