

STANSBURY BROWN LAW, PC
DANIEL J. BROWN (SBN 307604)
dbrown@stansburybrownlaw.com
ETHAN C. SURLS (SBN 327605)
esurls@stansburybrownlaw.com
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Tel: 323-204-3124

Attorneys for Plaintiffs

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David W. Slayton,
Executive Officer/Clerk of Court,
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

TAMMY KAATZ & SUGEY CORNEJO, as
individuals and on behalf of all others
similarly situated,

Plaintiffs,

vs.

BLUESTAR RESORT & GOLF, LLC, a
Delaware limited liability company; and
DOES 1 through 100,

Defendants.

Case No.: 23STCV20193

**REPRESENTATIVE ACTION
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *e seq.*).**

UNLIMITED CIVIL CASE

1 Plaintiffs Tammy Kaatz & Suguey Cornejo (“Plaintiffs”), on behalf of themselves and all
2 others similarly situated, hereby bring this Representative Action Complaint against BLUESTAR
3 RESORT & GOLF, LLC, a Delaware limited liability company; and, DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring
7 this Representative Action Complaint for recovery of unpaid wages and penalties under Labor
8 Code §§ 201-203, 226 *et seq.*, 226.7, 510, 512, 516, 551, 552, 558, 1182.12, 1194, 1194.2, 1197,
9 1198, 2802, 2698 *et seq.*; and Industrial Welfare Commission Wage Order 2 (“Wage Order 2”),
10 in addition to seeking declaratory relief and restitution. This Complaint is brought pursuant to
11 California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations
12 of the California Labor Code because the amount in controversy exceeds this Court's
13 jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
16 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
17 County of Los Angeles. One or more of the Defendants, transact business, have agent(s) within
18 the County of Los Angeles, and/or otherwise are found within the County of Los Angeles, and
19 Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein,
22 Plaintiffs were and currently are, California residents. During the one year immediately preceding
23 the filing of the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiffs were employed by Defendants as non-exempt
25 employees. Plaintiffs were, and are, victims of Defendants’ policies and/or practices complained
26 of herein, lost money and/or property, and have been deprived of the rights guaranteed by Labor
27 Code §§ 201-203, 226 *et seq.*, 226.7, 510, 512, 516, 551, 552, 558, 1182.12, 1194, 1194.2, 1197,
28 1198, 2802, 2698 *et seq.*; and Wage Order 2, which sets employment standards for personal service

1 industries.

2 4. Plaintiffs are informed and believe, and based thereon allege, that during the one
3 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
4 continue to do) business by employing non-exempt employees in the United States, and employed
5 Plaintiffs and other, similarly-situated non-exempt employees within Los Angeles County and
6 the state of California and, therefore, were (and are) doing business in Los Angeles County and
7 the State of California.

8 5. Plaintiffs do not know the true names or capacities, whether individual, partner, or
9 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiffs are
12 informed, and believe, and based thereon allege, that each of said fictitious defendants, whether
13 individual, partners, or corporate, were responsible in some manner for the acts and omissions
14 alleged herein, and proximately caused Plaintiffs and the other aggrieved employees to be subject
15 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

16 6. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned
17 herein, Defendants were and are the employers of Plaintiffs and all other aggrieved employees.

18 7. At all times herein mentioned, each of said Defendants participated in the doing
19 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
20 Defendants, and each of them, were the agents, servants, and employees of each and every one of
21 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
22 were acting within the course and scope of said agency and employment. Defendants, and each
23 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
24 omissions complained of herein.

25 8. At all times mentioned herein, Defendants, and each of them, were members of
26 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
28 Plaintiffs allege that all Defendants were joint employers for all purposes of Plaintiffs and all

1 other aggrieved employees.

2 **GENERAL FACTUAL ALLEGATIONS**

3 9. Plaintiffs worked for Defendants as non-exempt personal trainers/fitness
4 instructors at Defendants' residential and health/wellness community "The Polo Club" in Palm
5 Springs. Plaintiff Cornejo commenced employment with Defendants around April 2016 and
6 Plaintiff Kaatz commenced employment with Defendants around February 2020. Plaintiffs' were
7 both wrongfully terminated by Defendants around June 2022.

8 10. Plaintiffs and other aggrieved employees were made to operate under separate
9 compensation structures, being paid minimum wage for administrative work that they performed
10 at the commencement of their shifts and being paid approximately \$35 per hour for the rest of
11 their shifts while they were leading classes or engaged in personal training sessions. Defendants
12 required Plaintiffs and other aggrieved employees to clock in and out under these separate pay
13 codes throughout the day, however they were not compensated for the time spent between
14 clocking in and out, causing Plaintiffs and other aggrieved employees to be deprived of all
15 minimum and overtime wages. Specifically, after clocking in at the beginning of their shifts and
16 performing their administrative duties, Plaintiffs and other aggrieved employees would clock
17 back out, have to wait anywhere from 2-4 minutes off-the-clock, and then clock back in under
18 their normal payrates. This time spent off-the-clock was inherently compensable as Plaintiffs and
19 other aggrieved employees were on duty and waiting for their time to be captured in between
20 clocking in and out, but Plaintiffs and other aggrieved employees were not ever compensated for
21 this time in any fashion. Consequently, due Defendants' unlawful timekeeping and payment
22 policies and practices that failed to properly compensate for all hours worked, including overtime
23 hours worked, Plaintiffs and other aggrieved employees have been deprived of all required
24 minimum and overtime wages earned.

25 11. Furthermore, on those occasions where Plaintiffs and other aggrieved employees
26 worked overtime hours during the week, Plaintiffs and other aggrieved employees were rarely, if
27 ever, compensated at the proper requisite overtime rate of pay. Specifically, as mentioned above,
28 Plaintiffs were compensated at multiple hourly rates of pay (in addition to other nondiscretionary

forms of compensation) which are not excludable from the regular rate of pay. Upon information and belief, Defendants' failures to pay all due overtime wages is in part due to its failure to properly blend all hourly rates in a given pay period, amongst other nondiscretionary forms of compensation, to determine the proper regular rate of pay for calculating overtime, resulting in substantial unpaid overtime compensation to Plaintiffs and other aggrieved employees. For example, on Plaintiff Cornejo's wage statement for the pay period between September 20, 2021 and October 3, 2021, Plaintiff Cornejo worked 52.85 hours at a rate of pay of \$36.0498 per hour, 6.70 hours at a rate of \$14.00 per hour, and 2.42 overtime hours at a rate of \$21.00 per hour. Clearly, Defendants failed to blend the respective hourly rates of pay here when calculating Plaintiff Cornejo's regular rate of pay for overtime purposes, which should have been approximately \$33.56 per hour, and resulted in at least a \$30.39 underpayment in overtime wages in this pay period. This practice was pervasive throughout Plaintiffs' employment, was a constant source of complaints, and resulted in substantial unpaid wages. As a result, Defendants failed to ensure that Plaintiffs and other aggrieved employees received proper overtime wages for all overtime hours worked.

12. Plaintiffs and other aggrieved employees were not authorized to exercise all legally required rest periods. Rather, Plaintiffs and other aggrieved employees would generally be on-the-clock and working throughout the entirety of their shifts in order to meet the intense demands placed upon them by Defendants. Furthermore, even if Defendants ever authorized or provided Plaintiffs and other aggrieved employees with anything resembling a rest period, they were inherently on-duty and non-compliant as they were not permitted to leave Defendants' facilities and would be badgered with work-related questions and concerns throughout the entirety of their shifts. As a consequence, Plaintiffs and other aggrieved employees were systematically denied paid rest period compensation that they were duly and legally entitled to. Despite Defendants' failure to authorize and permit Plaintiffs and other aggrieved employees and to take all lawful paid rest periods, due to their uniform and unlawful practices, Defendants never provided Plaintiffs and other aggrieved employees with an hour of pay at their respective regular rates of pay for each rest period violation as required by Labor Code § 226.7. Upon information

1 and belief, during at least a portion of the time period in question, Defendants maintained no
2 payroll code or another mechanism for the payment of rest period premiums in the event Plaintiffs
3 and other aggrieved employees were not authorized to take lawful rest periods.

4 13. Defendants also failed to provide Plaintiffs and other aggrieved employees with a
5 compliant first meal period when they worked shifts in excess of 6.0 hours. Plaintiffs and other
6 aggrieved employees rarely, if ever, were entitled to exercise the use of a timely, duty-free, legally
7 compliant thirty-minute uninterrupted meal period despite almost always working at least 6.0
8 hours in a day. Rather, despite countless complaints regarding Defendants' failures to provide all
9 requisite meal periods, Plaintiffs and other aggrieved employees would generally work through
10 their shifts without taking any time for a compliant meal period. Furthermore, to the extent that
11 Plaintiffs and other aggrieved employees were ever afforded anything resembling a meal period,
12 they were always on-duty and non-compliant. Instead, on those rare occasions where Plaintiffs
13 and other aggrieved employees were actually permitted to exercise the use of meal periods, they
14 would be confined to Defendants' facilities and constantly interrupted by coworkers and
15 supervisors. Indeed, Plaintiffs and other aggrieved employees, after years of complaining about
16 not getting meal periods, were forced to eat in a maintenance room full of chemicals on those
17 occasions when they were actually permitted time to eat a quick lunch. Defendants were not only
18 aware of, but actively encouraged this practice. Upon information and belief, Defendants did not
19 accurately record meal periods. Despite Defendants' failure to provide Plaintiffs and other
20 aggrieved employees with all lawful meal periods due to their uniform and unlawful practices,
21 Defendants didn't always provide Plaintiffs and other aggrieved employees with an hour of pay
22 at their respective regular rates of pay for each meal period violation as required by Labor Code
23 § 226.7.

24 14. Defendants failed to adequately reimburse Plaintiffs and other aggrieved
25 employees for all reasonable and necessary work expenditures, including but not limited to,
26 requiring them to utilize their personal cellular phone for work purposes without reimbursement.
27 Indeed, Defendants would print out business cards for Plaintiffs and other aggrieved employees
28 and list their personal cell phone information on the cards for Defendants' members/clients to

1 contact them at any hour of the day, but failed to compensate them for their personal cell phone
2 costs. Furthermore, all communications between Plaintiffs and other aggrieved employees with
3 their supervisors regarding work-related tasks were necessarily conducted on their personal cell
4 phone. At one point during their employment there were discussions amongst Defendants’
5 supervisors regarding reimbursing Plaintiffs and other aggrieved employees for their cell phone
6 costs, indicating that Defendants were keenly aware that they should have been doing so, but they
7 simply elected not to. As a consequence, Defendants failed to reimburse Plaintiffs and other
8 aggrieved employees for all necessarily incurred business expenditures in violation of Labor Code
9 § 2802.

10 15. As a result of Defendants’ failure to pay all minimum/overtime wages and failure
11 to provide all required meal periods and authorize all rest periods or pay premium pay in lieu
12 thereof, Defendants have maintained inaccurate payroll records, failed to timely pay all wages
13 owed to employees, and issued inaccurate wage statements. Furthermore, the wage statements
14 Defendants issued to Plaintiffs and other aggrieved employees were facially noncompliant in
15 violation of Labor Code 226(a)(8) in that they failed to list the proper legal entity that is the
16 employer. Specifically, Defendants issued wage statements identifying itself as both “Blue Star
17 Resort & Golf” and “Blue Star Resort”, rather than the actual legal name of the entity employer
18 “Bluestar Resort & Golf, LLC”, constituting facial wage statement violations.

19 **FIRST CAUSE OF ACTION**

20 **PRIVATE ATTORNEYS GENERAL ACT**

21 **(AGAINST ALL DEFENDANTS)**

22 16. Plaintiffs re-allege and incorporate by reference all prior paragraphs as though
23 fully set forth herein.

24 17. Defendants have committed several Labor Code violations against Plaintiffs and
25 other aggrieved employees. Plaintiffs, “aggrieved employees” within the meaning of Labor Code
26 § 2698 et seq., acting on behalf of themselves and other aggrieved employees, bring this
27 representative action against Defendants to recover the civil penalties due to Plaintiffs, other
28 aggrieved employees, and the State of California according to proof pursuant to Labor Code §

558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiffs and other aggrieved employees in violation of Labor Code §§ 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiffs and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiffs and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiffs and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Plaintiffs and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages and compensation earned by Plaintiffs and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;

- 1 g. Failing to pay non-exempt employees all earned wages at least twice during
2 each calendar month in violation of Labor Code § 204;
- 3 h. Failing to compensate Plaintiffs and other aggrieved employees at least once
4 every week on a business day designated in advance and including all wages
5 earned up to and including the fourth day before such payday in violation of
6 Labor Code § 205;
- 7 i. Failing to reimburse Plaintiffs and other aggrieved employees for all business
8 expenses incurred in violation of Labor Code §§ 2802 and 2804;
- 9 j. Failing to provide legally mandated written disclosures and/or written notices
10 regarding the terms of employment to Plaintiffs and other aggrieved
11 employees in violation of Labor Code § 2810.5; and
- 12 k. Failing to maintain accurate records on behalf of Plaintiffs and other aggrieved
13 employees in violation of Labor Code § 1174.

14 18. On May 12, 2023, Plaintiffs notified Defendants via certified mail, and notified
15 the California Labor and Workforce Development Agency (“LWDA”) via its website, of
16 Defendants’ violations of the California Labor Code and Plaintiffs’ intent to bring a claim for
17 civil penalties under California Labor Code § 2698 et seq. with respect to violations of the
18 California Labor Code identified in Paragraph 17 (a)-(k). Now that sixty-five days have passed
19 from Plaintiffs’ notifying Defendants and the LWDA of these violations, and the LWDA has not
20 provided notice that it intends to investigate the violations, Plaintiffs have exhausted their
21 administrative requirements for bringing a claim under the Private Attorneys General Act with
22 respect to these violations.

23 19. Plaintiffs were compelled to retain the services of counsel to file this court action
24 to protect their interests and the interests of other similarly aggrieved employees, and to assess
25 and collect the civil penalties owed by Defendants. Plaintiffs have thereby incurred attorneys’
26 fees and costs, which they are entitled to receive under California Labor Code § 2699(g).

27 **PRAYER**

28 WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose
behalf this suit is brought against Defendants, as follows:

1 1. Upon the First Cause of Action, (1) \$100.00 for each initial violation for each
2 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
3 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
4 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
5 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
6 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
7 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
8 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
9 each initial violation and \$200 for each subsequent violation per employee per pay period for the
10 violations of the Labor Code Sections cited in Labor Code § 2699.5;

11 2. Prejudgment interest on all due and unpaid wages pursuant to California Labor
12 Code § 218.6 and Civil Code §§ 3287 and 3289;

13 3. On all causes of action, for attorneys' fees and costs as provided by Code of Civil
14 Procedure § 1021.5 and all other applicable statutes; and

15 4. For such other and further relief the Court may deem just and proper.

16
17 Dated: August 23, 2023

Respectfully submitted,
STANBURY BROWN LAW, PC

18
19 By: _____


Daniel J. Brown
Ethan C. Surls
Attorney for Plaintiffs