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SILVIA LOPEZ ARMENTA and MARIA CASTRO GARCIA,
and the Aggrieved Employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

SILVIA LOPEZ ARMENTA, MARIA
CASTRO GARCIA, and ENEDINA DE LA
TORRE on behalf of themselves and all
similarly aggrieved employees,

Plaintiffs,

v.

TAYLOR FARMS RETAIL, INC.; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 23CV001891

REPRESENTATIVE ACTION

**SECOND AMENDED COMPLAINT FOR
VIOLATION OF LABOR CODE
SECTION 2698 *ET. SEQ***

Plaintiffs SILVIA LOPEZ ARMENTA and MARIA CASTRO GARCIA, on behalf of
themselves and all other aggrieved employees of Defendants, complain and allege as follows:

1. As used herein, the term "Plaintiffs" refers to SILVIA LOPEZ ARMENTA and
MARIA G. CASTRO GARCIA, who are the named Plaintiffs herein.

2. Plaintiff Silvia Lopez Armenta ("Plaintiff Armenta") is a competent adult who
is, and at all times mentioned in this complaint has been, a resident of Monterey County,
California. Plaintiff was employed by Defendants from approximately 2020, through
approximately August 2022, pursuant to an unwritten contract, some of the terms of which

1 were the product of an oral agreement, with other terms implied from or incorporated from
2 written materials and policies maintained by Defendants and from the conduct of the parties.
3 The terms of this contract included working as a non-exempt employee, and at all times as an
4 employee not exempted from the California Labor Code.

5 3. Plaintiff Maria Castro Garcia (“Plaintiff Garcia”) is a competent adult who is,
6 and at all times mentioned in this complaint has been, a resident of Monterey County,
7 California. Plaintiff was employed by Defendants from approximately April 2015, through
8 approximately January 15, 2022, pursuant to an unwritten contract, some of the terms of which
9 were the product of an oral agreement, with other terms implied from or incorporated from
10 written materials and policies maintained by Defendants and from the conduct of the parties.
11 The terms of this contract included working as a non-exempt employee, and at all times as an
12 employee not exempted from the California Labor Code.

13 4. Defendant TAYLOR FARMS RETAIL, INC. (“TAYLOR RETAIL”) is, and at
14 all times mentioned in this complaint has been, a corporation incorporated under the laws of
15 the State of California and registered to do business in the State of California. Plaintiffs are
16 informed and believe and thereon allege that TAYLOR RETAIL is authorized to and does
17 conduct business throughout the State of California, has purposefully availed itself of the
18 privileges and benefits of doing business in the State of California.

19 5. Plaintiffs are ignorant of the true names, identities, capacities and relationships
20 of the Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these
21 Defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege,
22 that each of these fictitiously named Defendants are responsible in some manner for the
23 occurrences herein alleged, and that Plaintiffs’ damages as herein alleged were proximately
24 caused by DOES 1 through 50. Plaintiffs will amend this Complaint to allege the true names
25 and capacities of said DOE Defendants when such information is ascertained. Each reference
26 to “Defendants,” and each reference to any particular Defendant herein, shall be construed to
27 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
28 “DOE” Defendant, and each of them.

1 6. Plaintiffs are informed and believe, and thereon allege, that each of the
2 Defendants herein was at all times relevant to this action the agent, employee, representative,
3 partner, and/or joint venturer of the remaining Defendants, and each of them, and that each of
4 the Defendants herein was at all times acting within the course and scope of that relationship.
5 Plaintiffs are further informed and believe, and thereon allege, that each of the Defendants
6 herein consented to, ratified, and/or authorized the acts of each of the remaining Defendants
7 herein. The conduct of each of the Defendants was at all times herein in accordance with and
8 represents the official policy of Defendants. Additionally, at all times herein mentioned,
9 Defendants, and each of them, aided and abetted the acts and omissions of each and all of the
10 other Defendants, which proximately caused the damages herein alleged. Plaintiffs are further
11 informed and believe, and thereon allege, that all of the Defendants jointly employed the
12 Plaintiffs and/or carried out a joint scheme, business plan and/or uniform policy, and the acts
13 and omissions of each Defendant are legally attributable to the other Defendants such that they
14 are deemed a single integrated enterprise and agents of one another so that all Defendants are
15 each jointly and severally liable for the acts and omissions hereinafter alleged.

16 7. At all times herein, Defendants directly or indirectly, or through an agent or
17 representative, exercised control over the wages, hours and/or working conditions of the
18 Plaintiffs, and directly or indirectly or through an agent or other person engaged, suffered, or
19 permitted Plaintiffs to work.

20 **ADMINISTRATIVE PROCEEDINGS**

21 8. Pursuant to California Labor Code § 2699.3, Plaintiffs gave written notice on
22 June 14, 2023, by electronic filing with the Labor and Workforce Development Agency, and
23 by certified mail to Defendant TAYLOR RETAIL of factual and legal basis for the labor law
24 violations alleged in this Complaint.

25 9. Pursuant to California Labor Code § 2699.3, Plaintiffs seek all applicable
26 penalties for violations which the Labor and Workforce Development Agency has failed or
27 elected not to investigate and/or failed or elected not to issue a citation. Plaintiffs have
28 exhausted all administrative remedies required by the Labor and Workforce Development

1 Agency as a prerequisite to filing this action.

2 **JURISDICTION AND VENUE**

3 10. This Court has jurisdiction over this action pursuant to Article VI, section 10 of
4 the California Constitution. Plaintiffs bring this Complaint for violations of California law
5 occurring in the County of Monterey, including violations of the California Labor Code, and
6 the amount in controversy exceeds the minimum jurisdictional amount of the Superior Court.
7 Based on information and belief, Defendants have intentionally availed themselves of the
8 benefits and privileges available within this State, economic or otherwise, so as to render the
9 exercise of jurisdiction over them by the courts of the State of California consistent with
10 traditional notations of fair play and substantial justice. Accordingly, this Court has
11 jurisdiction over the parties and claims in this matter.

12 11. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
13 district because Defendants now, and all times relevant herein, reside and/or transact business
14 in the County of Monterey. The conduct alleged herein and the damages resulting therefrom
15 occurred in the County of Monterey, and at all times herein Defendants maintained their
16 principal place of business in the County of Monterey, California.

17 **GENERAL ALLEGATIONS**

18 12. Defendants now, and at all times relevant herein, did, own, operate and control a
19 business or establishment that employs persons within the meaning of all applicable wage
20 orders, including, but not limited to, IWC Wage Order No. 14-2001 (California Code of
21 Regulations, title 8, section 11140).

22 13. At all times relevant herein, Plaintiffs and the aggrieved employees were non-
23 exempt employees of Defendants under the California Labor Code and were protected by the
24 provisions of the Wage Order.

25 14. Beginning in or around March 2020, Plaintiffs and other employees were
26 required by Defendants to form and wait in a line at the beginning of each workday in order to
27 undergo temperature screenings prior to being allowed entry into the facility. The process of
28 waiting in line and undergoing said temperature screenings took, on average, approximately

1 five to ten minutes each workday. Defendants required the employees to undergo such
2 temperature screenings without compensation, regardless of how long the screening process
3 took. Plaintiffs are informed and believe and thereon allege that these pre-shift temperature
4 screenings were implemented pursuant to Defendants' policies concerning the admission of
5 workers to its facility during the COVID-19 pandemic.

6 15. During Plaintiffs' employment with Defendants, Defendants maintained a policy
7 and practice by which they routinely scheduled employees to work shifts for which they were
8 required to call or text to ascertain their starting time for that workday ("Call-In Shifts").
9 Plaintiffs and the aggrieved employees were subject to discipline, up to and including
10 termination, if they failed to call or text each day at the call-in time designated for such Call-In
11 Shifts. Plaintiffs and the aggrieved employees were further subject to discipline, up to and
12 including termination, if they failed to physically report to the workplace at the shift start time
13 communicated to the employee via this mandatory call-in process. At all relevant times,
14 Defendants failed and refused to compensate Plaintiffs and the aggrieved employees for time
15 spent calling or texting each day they were scheduled for a Call-In Shift. In addition, for
16 employees who were required to call in or text but then told not to physically report to work,
17 Defendants failed to pay reporting time pay or otherwise compensate such employees for the
18 time they were required to keep available for the Call-In Shift. Lastly, Defendants failed to
19 reimburse Plaintiffs and the aggrieved employees for the required use of their personal cell
20 phones in connection with such Call-In Shifts.

21 16. At all times relevant herein, Defendants maintained and enforced a uniform
22 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
23 203, 1194, 1197, 1197.1 and 2698 *et. seq.*, and the Wage Order by unlawfully refusing to pay
24 wages to Plaintiffs and the aggrieved employees for the time spent calling or texting
25 Defendants to ascertain their starting time for that workday and undergoing COVID-19
26 temperature checks.

27 17. At all times relevant herein, Defendants maintained and enforced a uniform
28 policy by which they regularly and consistently violated California Labor Code § 2802 by

1 failing to reimburse Plaintiffs and the aggrieved employees for work-related expenses.

2 18. Plaintiffs are informed and believe, and thereon allege, that at all times herein
3 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
4 and advisors knowledgeable about California labor and wage law, employment and personnel
5 practices, and about the requirements of California law. Plaintiffs are informed and believe,
6 and thereon allege, that at all times relevant herein, Defendants knew or should have known
7 that they had a duty to compensate Plaintiffs and the aggrieved employees, and that
8 Defendants had the financial ability to pay such compensation, but willfully, knowingly and
9 intentionally failed to do so, and falsely represented to Plaintiffs and the aggrieved employees
10 that they were properly denied wages, all in order to increase Defendants' profits.

11 19. California Labor Code § 218 states that nothing in Article I of the Labor Code
12 shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to
13 him under this Article."

14 **FIRST CAUSE OF ACTION**

15 **California Labor Code Private Attorneys General Act of 2004**
16 **(California Labor Code § 2698)**
17 **(Plaintiffs and the Aggrieved Employees**
18 **against Defendant TAYLOR RETAIL)**

19 20. Plaintiffs and the aggrieved employees incorporate by reference all of the
20 allegations contained in the preceding paragraphs as though fully set forth herein.

21 21. California Labor Code §§ 2698, et seq. ("PAGA") permits Plaintiffs to recover
22 civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code
23 Section 2699.5.

24 22. Plaintiffs are "aggrieved employees" pursuant to Labor Code § 2699, as
25 Plaintiffs have suffered violations including, but not limited to, violations of Labor Code §§
26 201-203, 208, 216, 223, 226, 226.7, 233, 510, 512, 558, 1174, 1194, 1197-1199, 2698 et seq
27 2699(f) and (g), 2802, and the Wage Order.

28 23. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3,
and 2699.5, Plaintiffs, acting in the public interest as a private attorney general, seek
assessment and collection of civil penalties for Plaintiffs and the employees, and the State of

1 California against Defendant TAYLOR RETAIL on behalf of themselves and the employees.

2 24. WHEREFORE, Plaintiffs request relief as hereinafter prayed for.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs, on behalf of themselves and all others on whose behalf this
5 suit is brought against Defendants, jointly and severally, as follows:

6 1. As to the First Cause of Action, for civil penalties and attorneys' pursuant to
7 Labor Code § 2698 *et. seq.*, and Labor Code § 226.3; and

8 2. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 Dated: April 22, 2024

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

11
12 By: /s/ B. James Fitzpatrick
13 B. James Fitzpatrick
14 Larry W. Lee
15 Attorneys for Plaintiffs,
16 SILVIA LOPEZ ARMENT,
17 MARIA CASTRO GARCIA, and the
18 Aggrieved Employees
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18
8 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,
9 Los Angeles, California 90071.

10 On April 25, 2024, I served the following document(s) described as: **SECOND**
11 **AMENDED COMPLAINT FOR VIOLATION OF LABOR CODE SECTION 2698 ET.**
12 **SEQ** on the interested parties in this action as follows:

13 Andrew B. Levin
14 andy.levin@ogletree.com
15 Ricardo R. Bours
16 ricardo.bours@ogletree.com
17 OGLETREE, DEAKINS, NASH,
18 SMOAK & STEWART, P.C.
19 Esplanade Center III, Suite 800
20 2415 East Camelback Road
21 Phoenix, AZ 85016
22 *Attorneys for Defendant*
23 *Taylor Farms Retail, Inc.*

24 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-
25 entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website
26 www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for
27 the above-entitled case. The service transmission was reported as complete and a copy of the
28 filing receipt/confirmation will be filed, deposited, or maintained with the original document(s)
in this office.

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct. Executed on April 25, 2024, at Los Angeles, California.

25 
26 _____
27 Erika Mejia
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