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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

Alex Castaneda, as a Private Attorney
General on behalf of the State of California,

Plaintiff,

vs.

Ardagh Glass Inc.; and Does 1 through 20,
inclusive,

Defendants.

Case No. **23CV041542**

**REPRESENTATIVE ACTION COMPLAINT
FOR:**

**VIOLATION OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LABOR
CODE §§ 2698, ET SEQ.)**

1 Plaintiff Alex Castaneda, as a Private Attorney General on behalf of the State of
2 California, hereby alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Alex Castaneda (“Plaintiff”) brings this representative action against
5 Defendant Ardagh Glass Inc. (“Ardagh”), and Does 1 through 20, inclusive (“Defendants”) on
6 behalf of himself individually and all other aggrieved employees employed by Defendants
7 throughout California, defined as all non-exempt employees employed by Defendants in the State
8 of California from one year before the date Plaintiff gave notice of these claims to the California
9 Labor and Workforce Development Agency (“LWDA”), plus any applicable tolling, to the date
10 of trial.

11 2. Defendant Ardagh Glass Inc. is a corporation that conducts business in and
12 employs residents of California.

13 3. Through this action, Plaintiff alleges that Defendants have engaged in a
14 systematic pattern of wage and hour violations under the California Labor Code (“Labor Code”).

15 4. Plaintiff is informed and believes, and thereon alleges, during the relevant time
16 period, Defendants had a consistent policy of violating state wage and hour laws by, among other
17 things:

- 18 (a) failing to pay minimum wages for all hours worked;
- 19 (b) failing to pay overtime wages for all hours worked;
- 20 (c) failing to provide lawful meal periods or compensation in lieu thereof;
- 21 (d) failing to authorize or permit lawful rest breaks or provide compensation
22 in lieu thereof;
- 23 (e) failing to provide accurate itemized wage statements; and
- 24 (f) failing to reimburse all business expenses.

25 5. Plaintiff brings this representative action seeking monetary relief against
26 Defendants on behalf of himself and all aggrieved employees to recover, among other things,
27 penalties, attorney’s fees, costs, and expenses pursuant to the Private Attorneys General Act of
28 2004, Labor Code §§ 2698, *et seq.* (“PAGA”).

1 or were the partners, agents, owners, shareholders, managers, or employees of Defendants at all
2 relevant times.

3 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
4 in all respects pertinent to this action as the agent of each other defendant, carried out a joint
5 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
6 are legally attributable to each other defendant. Furthermore, defendants in all respects acted as
7 the employers and/or joint employers of Plaintiff and other aggrieved employees.

8 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
9 and omissions alleged herein were performed by, or are attributable to, Defendants and/or Does
10 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
11 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
12 official policy of Defendants.

13 16. At all relevant times, Defendants, and each of them, acted within the scope of such
14 agency or employment, or ratified each and every act or omission complained of herein. At all
15 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
16 and all the other Defendants in proximately causing the damages herein alleged.

17 17. Plaintiff is informed and believes, and thereon alleges, that each of said
18 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
19 omissions, occurrences, and transactions alleged herein.

20 **GENERAL ALLEGATIONS**

21 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
22 persons as non-exempt employees.

23 19. Defendants employed Plaintiff during the relevant time period.

24 20. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
25 herein, Defendants were advised by skilled lawyers, employees, and other professionals who
26 were knowledgeable about California's wage and hour laws, employment and personnel
27 practices, and the requirements of California law.

28 21. Through this action, Plaintiff alleges that Defendants have engaged in a

1 systematic pattern of wage and hour violations under the California Labor Code and IWC Wage
2 Orders.

3 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
5 for all time worked (including minimum wages and overtime wages) and that they were not
6 receiving all wages earned for work that was required to be performed. For instance, Defendants
7 required Plaintiff and other aggrieved employees to arrive early to relieve the previous shift, but
8 also required Plaintiff and other aggrieved employees to clock in afterwards at no earlier than
9 seven minutes before their scheduled shift start time. Further, Defendants inaccurately and
10 inconsistently recorded employee time, and maintained a practice of paying employees for time
11 scheduled rather than time actually worked.

12 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other aggrieved employees were entitled to receive overtime
14 wages at the correct regular rate of pay. However, Defendants failed to properly calculate the
15 regular rate of pay for Plaintiff and aggrieved employees. For example, Defendants failed to pay
16 Plaintiff and other aggrieved employees the proper overtime and doubletime rate by failing to
17 include bonuses, shift differentials, and other incentive payments in the regular rate of pay. In
18 violation of the Labor Code and IWC Wage Orders, Defendants failed to properly compensate
19 Plaintiff and aggrieved employees for overtime pay.

20 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and aggrieved employees were entitled to receive all required
22 meal periods or payment of one (1) additional hour of pay at the aggrieved employees' regular
23 rate of pay when they did not receive a timely, uninterrupted meal period. Plaintiff and aggrieved
24 employees did not receive compliant meal periods in that they were often late, skipped, or
25 interrupted. In addition, Plaintiff and aggrieved employees were not relieved of their work duties
26 during meal periods because they were required to be responsive to calls from their supervisors
27 during breaks. In violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved
28 employees did not receive all meal periods or payment of one (1) additional hour of pay at the

1 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted meal
2 period.

3 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and aggrieved employees were entitled to receive all rest breaks
5 or payment of one (1) additional hour of pay at the aggrieved employees' regular rate of pay
6 when a rest break was missed. Plaintiff and aggrieved employees did not receive compliant rest
7 breaks in that they were often late, skipped, or interrupted. In addition, Plaintiff and aggrieved
8 employees were not relieved of their work duties during rest breaks because they were required
9 to be responsive to calls from their supervisors during breaks. In violation of the Labor Code
10 and IWC Wage Orders, Plaintiff and aggrieved employees did not receive all rest breaks or
11 payment of one (1) additional hour of pay at their regular rate of pay when a rest break was
12 missed, interrupted, or on-duty.

13 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and aggrieved employees were entitled to receive complete and
15 accurate wage statements in accordance with California law. Plaintiff and aggrieved employees
16 were not furnished with complete and accurate wage statements showing their correct number of
17 total hours worked, correct number of hours worked at each hourly rate, correct overtime rates,
18 and correct gross and net wages, among other things. For example, Defendants' wage statements
19 confusingly broke out overtime and double time paid into multiple separate categories,
20 preventing employees from easily determining necessary information such as all applicable
21 hourly rates in effect during the pay period and the corresponding number of hours worked at
22 each hourly rate by the employee per Cal. Labor Code Section 226(e)(2)(B). As a result,
23 Defendants failed to provide Plaintiff and aggrieved employees with accurate, timely, itemized
24 wage statements complying with the requirements of the California Labor Code and applicable
25 IWC Wage Order.

26 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and aggrieved employees were entitled to reimbursement for
28 necessary expenditures incurred in connection with the performance and execution of their job

1 duties. In violation of the California Labor Code, Plaintiff and aggrieved employees did not
2 receive adequate reimbursement for necessary business expenses, including but not limited to
3 reimbursement for use of their personal cell phones for business purposes including to
4 communicate with supervisors and coworkers, among of things. Thus, in violation of the Labor
5 Code, Plaintiff and aggrieved employees did not receive reimbursements for all business
6 expenses.

7 **FIRST CAUSE OF ACTION**

8 **ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. (“PAGA”)**

9 28. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
10 though fully set forth herein.

11 29. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
12 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
13 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees for
14 violation of the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself and other current or former employees pursuant to the
16 procedures specified in Labor Code § 2699.3.

17 30. For all provisions of the Labor Code except those for which a civil penalty is
18 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
19 dollars (\$100.00) for each aggrieved employee per pay period for the initial violations and two
20 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
21 period in which Defendants violated these provisions of the Labor Code.

22 31. Defendants’ conduct with respect to Plaintiff and other aggrieved employees
23 violates numerous Labor Code sections including, but not limited to, the following:

- 24 a. Violation of Labor Code §§ 210, 227.3, 510, 1194, 1194.2, 1197, 1197.1,
25 1198, and the IWC Wage Orders for failure to timely pay all earned wages
26 (including minimum and overtime wages) owed to Plaintiff and other
27 aggrieved employees during employment and upon separation of employment
28 as herein alleged;

- b. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal periods as herein alleged;
- c. Violation of Labor Code § 226.7 for failure to permit paid rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;
- d. Violation of Labor Code §§ 226 and 226.3 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;
- e. Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and complete records showing the hours worked daily by Plaintiff and other aggrieved employees as herein alleged;
- f. Violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff and other aggrieved employees for all reasonable and necessary business expenses as herein alleged;

32. Plaintiff is an “aggrieved employee” because he was employed by the alleged violator and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

33. On June 9, 2023, Plaintiff submitted notice to the LWDA and Defendants. To date, the LWDA has not provided notice of its intent to investigate. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under the PAGA.

34. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties for violations of the Labor Code sections cited above.

35. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

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