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13 to Labor Code § 2698 *et seq.*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF IMPERIAL**

16 MICHELLE LOPEZ, on behalf of herself and
17 all “aggrieved employees” pursuant to Labor
18 Code § 2698 *et seq.*,

19 Plaintiff,

20 v.

21 BONNIE PLANTS, LLC, a Delaware
22 corporation, and DOES 1 through 10,
23 inclusive,

24 Defendants.

CASE NO: ECU003144

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 204, 226(a), 226.7, 510, AND
512, AND PURSUANT TO LABOR CODE
§ 2699(a) FOR VIOLATIONS OF LABOR
CODE §§ 210, 226.3, AND 558**

ELECTRONICALLY FILED
Superior Court of California,
County of Imperial
09/27/2023 at 09:09:25 AM
By: Angela Jantz, Deputy Clerk
Assigned for all purposes,
including trial, to Judge
Jeffrey B. Jones

1 Plaintiff MICHELLE LOPEZ (“Plaintiff”), on behalf of herself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of BONNIE
3 PLANTS, LLC, a Delaware corporation, and any subsidiaries or affiliated companies (hereinafter
4 referred to as “Defendants”) as follows:

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other California employees who currently work or formerly worked for Defendants
9 (“Aggrieved Employees”).

10 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
11 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
12 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
13 consistent policies of:

14 a. Failing to pay premium wages to Plaintiff and other non-exempt Aggrieved
15 Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage
16 Order No. 7-2001. Plaintiff and other non-exempt Aggrieved Employees were routinely
17 unable to take a 10-minute rest period for every four (4) hours of work or major fraction
18 thereof, but were not paid premium wages of one hour’s pay for each missed rest period. When
19 they were able to take a rest period, they were oftentimes late, cut short, or on-duty. This
20 violates Labor Code § 226.7 and IWC Wage Order No. 7-2001;

21 b. Failing to pay premium wages to Plaintiff and other non-exempt Aggrieved
22 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512,
23 and 558 and IWC Wage Order 7-2001. Plaintiff and other non-exempt Aggrieved Employees
24 were routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal
25 period for every shift worked that exceeded five hours, or a second timely, uninterrupted, 30-
26 minute meal period for every shift worked that exceeded ten hours, but were not paid premium
27 wages of one hour’s pay for each missed first or second meal period. When they were able to
28

1 take a meal period, they were oftentimes late, cut short, or on-duty. This violates Labor Code
2 §§ 226.7, 512, and 558 and IWC Wage Order 7-2001;

3 c. Failing to timely pay all wages due to Plaintiff and Aggrieved Employees
4 during their employment, in violation of Labor Code §§ 204 and 210. Defendants paid
5 Plaintiff and other Aggrieved Employees on a weekly or bi-weekly basis, but failed to issue
6 them all their wages within seven calendar days of the conclusion of the payroll period, as
7 required by Labor Code § 204(d); instead, Plaintiff and other Aggrieved Employees were paid
8 eight or more days after the close of each pay period. This subjects Defendants to penalties as
9 authorized by Labor Code § 210;
10

11 d. Failing to provide Plaintiff and all other non-exempt Aggrieved Employees
12 with wage statements that fully and accurately itemized the requirements set forth in Labor
13 Code § 226(a). Plaintiff and other non-exempt Aggrieved Employees were not paid all wages
14 due, as stated above. As such, the wage statements provided by Defendants failed to accurately
15 state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours
16 worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of
17 Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay
18 period and the corresponding numbers of hours worked at each rate, in violation of Labor
19 Code §§ 226(a)(9) and 226.3; and
20

21 e. Failing to pay Plaintiff and other Aggrieved Employees all wages due,
22 including all accrued, but unused vacation wages, at the separation of their employment based
23 on the time frames required by Labor Code §§ 201-202. As stated above, Plaintiff and other
24 Aggrieved Employees were not paid all wages due during the course of their employment and,
25 as a result of this failure, they were not timely paid all wages due at the separation of their
26 employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and
27 certain Aggrieved Employees no longer employed by Defendants.
28

3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code § 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

4. Venue is proper in this Court because upon information and belief, Defendants are qualified to do business in the State of California, but failed to designate a principal place of business in the State of California on their Statement of Information filed with the California Secretary of State. Consequently, Defendants are subject to suit in any county in the State of California that Plaintiff chooses. As such, venue is proper in Imperial County.

III.

PARTIES

A. Plaintiff

5. Plaintiff MICHELLE LOPEZ was employed by Defendants from February 2023 through June 2023 as a non-exempt employee in California.

B. Defendant

6. Defendant BONNIE PLANTS, LLC is a Delaware corporation that employed Plaintiff and Aggrieved Employees in California.

7. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally attributable to the other Defendants.

9. The Defendants named herein as DOE 1 through DOE 10 are and are persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 204, 226(a), 226.7, 510, AND 512, AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 210, 226.3, AND 558**

10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set forth herein.

11. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 204, 226(a), 226.7, 510, and 512; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 210, 226.3, and 558.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On July 21, 2023, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)

1 calendar days of July 21, 2023. Plaintiff may therefore commence this action to seek civil penalties
2 pursuant to Labor Code § 2698 *et seq.*

3 Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as
4 described below.

5 V.

6 **RELIEF REQUESTED**

7 WHEREFORE, Plaintiff prays for the following relief:

8 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
9 Aggrieved Employees;

10 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
11 and other applicable law;

12 3. An award of attorneys' fees pursuant to Labor Code §§ 2699(g)(1) and other
13 applicable law; and

14 4. Such other and further relief as this Court may deem just and proper.

15 Dated: September 27, 2023

Respectfully submitted,

16 GAINES & GAINES
17 A Professional Law Corporation

18 By: Daniel F. Gaines
19 DANIEL F. GAINES
20 EVAN S. GAINES
21 Attorneys for Plaintiff