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individually and on behalf of all others similarly situated

8 **IN THE SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF SAN BERNARDINO**

10 JASON DELANOR SANDERS, individually and on
11 behalf of all others similarly situated,

12 Plaintiff(s),

13 v.

14 RUSSELL SECURITY AND STAFFING, INC; and
15 DOES 1 through 100,

16 Defendant(s).

Case No. CIVRS2501243

COMPLAINT

1. Failure to Provide Compliant Meal Periods
2. Failure to Provide Compliant Rest Periods
3. Wage Statement Penalties
4. Waiting Time Penalties
5. Violation of Unfair Competition Law
6. Private Attorneys General Act

17 **RELEVANT PARTIES**

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19
20 1. Plaintiff Jason Delanor Sanders ("Plaintiff") is an adult resident of San Bernardino County,
21 California, and was at all times relevant residing in San Bernardino County, California.

22 2. Defendant Russell Security and Staffing, Inc ("Defendant") is a California corporation with
23 its principal place of business located in San Bernardino County, California. Defendant is registered
24 to and does conduct business in the State of California and is subject to the laws of the State of
25 California. All acts and omissions of Defendant employees as alleged herein occurred while they
26 were acting within the course and scope of their employment.

27 3. Plaintiff is unaware of the true names or capacities of the Defendants sued herein as DOES 1
28 through 100, inclusive ("Doe Defendants"), and therefore sues said Doe Defendants by such

1 fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to insert the true
2 names and capacities of such Doe Defendants when such information has been obtained. Plaintiff is
3 informed and believes, and based on such information and belief alleges, that each of the fictitiously
4 named Doe Defendants has participated in some way in the wrongful acts and omissions alleged
5 below, and is liable to Plaintiff for damages and other relief to which Plaintiff is entitled. Defendant
6 and Doe Defendants are collectively referred to as “Defendants”.

7 **JURISDICTION AND VENUE**

8 4. This action is properly filed in San Bernardino County because the acts and omissions that
9 give rise to Plaintiff’s claims took place in San Bernardino County, and Defendants transact
10 substantial business in this County.

11 5. This Court has jurisdiction over Defendants because Defendants’ unlawful conduct as
12 alleged herein occurred in San Bernardino County, California and Plaintiff suffered damages from
13 such conduct within San Bernardino County, California.

14 **FACTUAL ALLEGATIONS**

15 6. At all times relevant, Plaintiff was Defendants’ employee.

16 7. Plaintiff was employed by Defendants from 5/26/2023 to 7/10/2023.

17 8. Defendants failed to provide Plaintiff with compliant meal breaks because meal breaks were
18 regularly missed, late or short because of understaffing.

19 9. In addition, Plaintiff was required to remain on call, on premises and on duty.

20 10. Despite not being provided with compliant meal breaks, Defendant did not pay premium pay
21 for these missed breaks at Plaintiff’s regular rate of pay.

22 11. Defendant failed to provide Plaintiff with compliant rest breaks because Plaintiff was
23 required to remain on call, on premises and on duty.

24 12. Despite not being provided with compliant rest breaks, Defendant did not pay premium pay
25 for these missed breaks at Plaintiff’s regular rate of pay.

26 13. Defendants failed to provide Plaintiff with accurate wage statements because the wage
27 statements issued to Plaintiff did not accurately list total wages owed and hours worked, among
28 other things.

1 14. Due to Defendants' failure to pay all wages due to Plaintiff during their employment, it
2 follows that Defendant failed to pay all wages due at the conclusion of Plaintiff's employment as
3 well. Therefore, Defendants are liable to Plaintiff for waiting time penalties.

4 **PAGA ALLEGATIONS**

5 15. Pursuant to Labor Code section 2699(a), any provision of the Labor Code which provides
6 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
7 ("LWDA") for violations of the Labor Code may, as an alternative, be recovered through a civil
8 action brought by an aggrieved employee on behalf of himself or herself and other current or former
9 employees pursuant to the procedures outlined in Labor Code section 2699.3.

10 16. Pursuant to Labor Code section 2699.3, an aggrieved employee may pursue a civil action
11 under PAGA after the following requirement have been met:

12 17. The aggrieved employee has provided written notice by online filing to the LWDA and by
13 certified mail to the employer (hereinafter "Employee's Notice") of the specific provisions of the
14 Labor Code alleged to have been violated, including the facts and theories to support the alleged
15 violations; and

16 18. The LWDA has provided notice (hereinafter "LWDA's Notice") to the employer and the
17 aggrieved employee by certified mail that it does not intend to investigate the aggrieved employee's
18 claims. Upon receipt of the LWDA's Notice, or if the LWDA does not provide such Notice within
19 65 calendar days of the postmark date of the Employee's Notice, the aggrieved employee may
20 commence a civil action pursuant to Labor Code section 2699 to recover civil penalties in addition
21 to any other penalties to which the employee may be entitled.

22 19. On 8/18/23, Plaintiff provided written notice by online filing to the LWDA and by certified
23 mail to Defendants of specific provisions of the Labor Code alleged to have been violated by
24 Defendants, including the facts and theories to support the alleged violations.

25 20. The 65-day notice period has elapsed, and the LWDA did not provide Plaintiff with written
26 notice that it intends to investigate the alleged violations of the Labor Code. Thus, Plaintiff seeks
27 PAGA Penalties on behalf of all Aggrieved Employees.
28

1 21. The Aggrieved Employees are defined as “All other nonexempt, hourly employees, current
2 and former, who were employed by Defendants within one year prior to 8/18/23, through final
3 disposition of this action.”

4 **FIRST CAUSE OF ACTION**

5 **Failure to Provide Compliant Meal Periods**

6 **By Plaintiff Against All Defendants**

7 22. Plaintiff incorporates by reference the paragraphs above.

8 23. Labor Code section 512 and the Wage Orders provide that “an employer shall not employ an
9 employee for a work period of more than five hours per day without providing the employee with a
10 meal period of not less than 30 minutes” or “for a work period of more than 10 hours per day
11 without providing the employee with a second meal period of not less than 30 minutes”.

12 24. An employer provides compliant meal breaks to its employees “if it relieves its employees
13 of all duty, relinquishes control over their activities and permits them a reasonable opportunity to
14 take an uninterrupted 30-minute break.” (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th
15 1004, 1040 (2012)).

16 25. Not only must an employer affirmatively relieve its employees of all duty during their meal
17 breaks, it also must not “impede or discourage” its employees from taking compliant meal breaks.
18 (*Brinker*, supra).

19 26. Defendants failed to provide Plaintiff with compliant meal breaks as alleged herein.

20 27. For each day that Defendants failed to provide Plaintiff with a compliant meal break,
21 Defendants were required to remit premium pay pursuant to Labor Code section 226.7(c), which is
22 one additional hour of pay at Plaintiff’s regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC*,
23 11 Cal. 5th 858 (2021)).

24 28. Defendants failed to pay premium pay at Plaintiff’s regular rate of pay for each day a meal
25 break was missed.

26 29. Plaintiff is therefore entitled to recover premium pay for missed meal breaks, interest,
27 penalties, attorney fees, and costs.

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1 **SECOND CAUSE OF ACTION**

2 **Failure to Provide Compliant Rest Periods**

3 **By Plaintiff Against All Defendants**

4 30. Plaintiff incorporates by reference the paragraphs above.

5 31. Labor Code section 226.7 and the Wage Orders requires employers to authorize and permit
6 its employees to take rest periods based on the total hours worked daily at the rate of 10 minutes net
7 per four hours or major fraction thereof.

8 32. Furthermore, “[d]uring rest periods employers must relieve employees of all duties and
9 relinquish control over how employees spend their time.” (*Augustus v. ABM Sec. Servs., Inc.*, 2 Cal.
10 5th 257, 269 (2016)).

11 33. Defendants failed to provide Plaintiff with compliant rest breaks as alleged herein.

12 34. For each day that Defendants failed to provide Plaintiff with a compliant rest break,
13 Defendants were required to remit premium pay pursuant to Labor Code section 226.7(c), which is
14 one additional hour of pay at Plaintiff’s regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC*,
15 11 Cal. 5th 858 (2021)).

16 35. Defendants failed to pay premium pay at Plaintiff’s regular rate of pay for each day a rest
17 break was missed.

18 36. Plaintiff is therefore entitled to recover premium pay for missed rest breaks, interest,
19 penalties, attorney fees, and costs.

20 **THIRD CAUSE OF ACTION**

21 **Wage Statement Penalties**

22 **By Plaintiff Against All Defendants**

23 37. Plaintiff incorporates by reference the paragraphs above.

24 38. Labor Code section 226(a) requires employers to provide itemized wage statements to its
25 employees that identify accurate information regarding their compensation. Defendants, as a matter
26 of policy and practice, failed in its affirmative obligation to provide accurate itemized wage
27 statements to Plaintiff in violation of Labor Code section 226(a).

1 39. As alleged herein, the wage statements that Defendants issued to Plaintiff were inaccurate
2 and incomplete.

3 40. Defendants knowingly and intentionally issued wage statements that were inaccurate and
4 incomplete, and the issuance of inaccurate and incomplete wage statements caused injury to
5 Plaintiff in that Plaintiff was unable to accurately verify and/or calculate their wages.

6 41. Plaintiff is therefore entitled to the recovery of wage statement penalties, attorney fees, and
7 costs.

8 **FOURTH CAUSE OF ACTION**

9 **Waiting Time Penalties**

10 **By Plaintiff Against All Defendants**

11 42. Plaintiff incorporates by reference the paragraphs above.

12 43. Labor Code sections 201 and 202 require that an employer provide an employee with all
13 wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the
14 employee's resignation.

15 44. Labor Code section 203 provides that if an employer willfully fails to pay wages owed in
16 accordance with Labor Code sections 201 or 202, then the wages of the employee continue as a
17 penalty from the due date at the same rate until paid or until an action is commenced, not to exceed
18 thirty days.

19 45. As alleged herein, Defendants willfully did not pay Plaintiff all wages owed at the
20 conclusion of employment.

21 46. Plaintiff is therefore entitled to the recovery of waiting time penalties, interest, attorney fees,
22 and costs.

23 **FIFTH CAUSE OF ACTION**

24 **Violation of Unfair Competition Law**

25 **By Plaintiff Against All Defendants**

26 47. Plaintiff incorporates by reference the paragraphs above.

27 48. Defendants' conduct described herein constitutes unfair competition.
28

1 49. Specifically, Defendants have gained an unfair advantage over other similarly situated
2 businesses by unlawfully reducing their overhead costs by not paying their employees what they are
3 owed.

4 50. Pursuant to Business and Professions Code 17203, Plaintiff is entitled to restitution of all
5 wrongfully withheld wages.

6 51. Plaintiff may recover attorney fees pursuant to Code of Civil Procedure section 1021.5.

7 **SIXTH CAUSE OF ACTION**

8 **Private Attorneys General Act**

9 **By Plaintiff and the Aggrieved Employees Against All Defendants**

10 52. Plaintiff incorporates by reference the paragraphs above.

11 53. PAGA permits Plaintiff and the Aggrieved Employees to recover civil penalties for the
12 violation(s) of the Labor Code.

13 54. As alleged herein, Defendants' conduct violates numerous sections of the Labor Code.

14 55. With respect to violations of Labor Code sections 226.7 and 558 for Defendants' failure to
15 provide Plaintiff and the Aggrieved Employees with compliant meal periods or compensation in
16 lieu thereof, the penalties in Labor Code sections 558 and 2699 apply.

17 56. With respect to violations of Labor Code section 226.7 for Defendants' failure to provide
18 Plaintiff and the Aggrieved Employees with compliant rest periods or compensation in lieu thereof,
19 the penalties in Labor Code section 2699 apply.

20 57. With respect to violations of Labor Code section 226(a) for failure to provide accurate wage
21 statements to Plaintiff and the Aggrieved Employees, the penalties in Labor Code sections 226.3
22 and 2699 apply.

23 58. With respect to violations of Labor Code section 203 for failure to pay all wages due to
24 Plaintiff and the Aggrieved Employees and the conclusion of their employment, the penalties in
25 Labor Code section 2699 apply.

26 59. Additionally, Plaintiff and the Aggrieved Employees are entitled to attorney's fees pursuant
27 to Labor Code section 2699(g).

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

3 **1ST Cause of Action**

- 4 1. Damages and/or penalties pursuant to Labor Code section 226.7
5 2. Interest
6 3. Attorneys' fees
7 4. Costs
8 5. Other relief the court deems proper

9 **2ND Cause of Action**

- 10 1. Damages and/or penalties pursuant to Labor Code section 226.7
11 2. Interest
12 3. Attorneys' fees
13 4. Costs
14 5. Other relief the court deems proper

15 **3RD Cause of Action**

- 16 1. Penalties pursuant to Labor Code section 226
17 2. Attorneys' fees
18 3. Costs
19 4. Other relief the court deems proper

20 **4TH Cause of Action**

- 21 1. Penalties pursuant to Labor Code section 203
22 2. Attorneys' fees
23 3. Costs
24 4. Other relief the court deems proper

25 **5TH Cause of Action**

- 26 1. Restitution of all wrongfully withheld wages
27 2. Attorneys' fees
28 3. Costs

1 4. Other relief the court deems proper

2 6TH Cause of Action

3 1. All applicable civil penalties available pursuant to Labor Code section 2698, et seq.

4 2. Attorneys' fees

5 3. Costs

6 4. Other relief the court deems proper

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8 DATED: February 21, 2025

/s/ D. Ginzburg

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10 DANIEL GINZBURG
11 Attorney for Plaintiff
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