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Attorneys for Plaintiff
PEDRO GOMEZ, as a representative of the State of California and the Labor and Workforce
Development Agency, and on behalf of other aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

PEDRO GOMEZ, individually and in his
representative capacity,

Plaintiff,

v.

CALICO BUILDING SERVICES, INC., a
California corporation; and DOES 1- 50,
Inclusive,

Defendants.

FILED
Superior Court of California
County of Los Angeles
11/02/2023

David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

CASE NO.: 23STCV20286

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT:**

**1. PAGA Representative Action
(Labor Code §§ 2698-2699.5)**

**Unlimited Jurisdiction, Amount Exceeds
\$25,000**

1. Plaintiff Pedro Gomez (“Plaintiff”), as a representative of the State of California and the LWDA, and on behalf of other aggrieved employees, hereby submits this Complaint against Defendant Calico Building Services, Inc., a California corporation doing business in California, and DOES 1 through 50, inclusive (collectively, “Defendants”), and each of them, and alleges as follows:

INTRODUCTION

2. This is a representative action brought by Plaintiff, as a representative of the State of California and the LWDA, and on behalf of other aggrieved employees, under California Code of Civil Procedure § 382 and Labor Code §§ 2698-2699.5 to collect civil penalties for Defendants’ Labor Code violations, specifically, failure to provide meal and rest periods, failure to reimburse for business expenses, unpaid minimum wages, failure to provide accurate itemized wage statements, failure to pay all compensation due upon discharge, penalties, interest, and other equitable relief, and reasonable attorneys’ fees and costs under Cal. Labor Code (“Labor Code”) §§ 226(e), 226.7, 512, 558, 1194, 1194.2, 1197, 1197.1, 2802, 201-203, IWC Wage Order No. 5 (“Wage Order”), and Cal. Civ. Proc. Code § 1021.5.

THE PARTIES

3. Plaintiff is and at all times relevant hereto worked for Defendants in Los Angeles County and was a resident of the State of California, County of Los Angeles.

4. Defendant Calico Building Services, Inc. (“Calico” or “Defendant”) is a California corporation headquartered in Irvine, California. At all times relevant hereto, Defendant Calico does business and employs individuals in the County of Los Angeles, State of California.

5. Defendant Calico is Plaintiff's employer within the meaning of the Labor Code and employs more than five (5) employees and is therefore subject to the jurisdiction of this Court.

6. The true names and capacities, whether individual, corporate, associate, or otherwise of the Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to further amend this Representative Action Complaint to insert the true names and capacities of said Defendants when the same become known to Plaintiff. Plaintiff is informed and believes and

thereupon alleges that each of the fictitiously-named Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiff as alleged hereinafter.

7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of the other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employment, alter ego status, and/or joint venture and with the permission and consent of each of the other Defendants.

8. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each of them, including those Defendants named DOES 1-50, acted in concert with one another to commit the wrongful acts alleged therein, and aided, abetted, incited, compelled, and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and based thereupon alleges, that the Defendants, and each of them, including those Defendants named as DOES 1-50, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to and actually causing Plaintiff harm.

9. Whenever and wherever reference is made in this Complaint to any act or failure to act by a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each Defendant acting individually, jointly, and severally.

JURISDICTION

10. This Court has jurisdiction over Plaintiff's claims under Labor Code §§ 201-203, 226 (e), 226.7, 512, 558, 1194, 1194.2, 1197, 1197.1, 2802, 2698-2699.5, and IWC Wage Order No. 5.

11. The amount in controversy for Plaintiff, including claims for civil penalties and pro rata share of attorneys' fees, is less than seventy-five thousand dollars (\$75,000).

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VENUE

12. Venue is proper in Los Angeles County pursuant to Cal. Civ. Proc. Code §§ 395 (a) 395.5. Defendant is a California corporation headquartered in Irvine, California, in Orange County. Defendant employed Plaintiff to perform work in Los Angeles County and the majority of the actions giving rise to this action took place in Los Angeles County.

ALTER EGO, AGENCY, AND JOINT EMPLOYER

13. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between Defendants and DOES 1-50 that the individuality and separateness of Defendants have ceased to exist.

14. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported corporate existence, DOES 1-50 are, in reality, one and the same as Defendants, including, but not limited to because:

a. Defendants are completely dominated and controlled by DOES 1-50, who personally violated the laws as set forth in this complaint, and who have hidden and currently hid behind Defendants to circumvent statutes or accomplish some other wrongful or inequitable purpose.

b. DOES 1-50 derive actual and significant monetary benefits by and through Defendants' unlawful conduct, and by using Defendants as the funding source for their own personal expenditures.

c. Plaintiff is informed and believes that Defendants and DOES 1-50, while really one and the same, were segregated to appear as though separate and distinct for purposes of circumventing a statute or accomplishing some other wrongful or inequitable purpose.

d. Plaintiff is informed and believes that Defendants do not comply with all requisite corporate formalities to maintain a legal and separate corporate existence.

e. Plaintiff is informed and believes, and based thereon alleges, that the business affairs of Defendants and DOES 1-50 are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in

1 inextricable confusion. Defendants are, and at all times relevant hereto were, used by
2 DOES 1-50 as a mere shell and conduit for the conduct of certain of Defendants' affairs,
3 and are, and were, the alter ego of DOES 1-50. The recognition of the separate existence
4 of Defendants would not promote justice, in that it would permit Defendants to insulate
5 themselves from liability to Plaintiff for violations of the Government Code, Labor Code,
6 and other statutory violations. The corporate existence of Defendants and DOES 1-50
7 should be disregarded in equity and for the ends of justice because such disregard is
8 necessary to avoid fraud and injustice to Plaintiff herein.

9 15. Accordingly, Defendants constitute the alter ego of DOES 1-50, and the fiction of
10 their separate corporate existence must be disregarded.

11 16. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
12 thereon alleges that Defendant and DOES 1-50 are Plaintiff's joint employers by virtue of a joint
13 enterprise, and that Plaintiff was an employee of Defendants and DOES 1-50. Plaintiff performed
14 services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all
15 Defendants shared control of Plaintiff as an employee, either directly or indirectly, in the manner
16 in which Defendants' business was and is conducted.

17 **FACTUAL ALLEGATIONS**

18 17. Calico is headquartered in Irvine, California and was founded in 1986. According
19 to its website, Calico "is a leading provider of building, property and facility services. . . . Calico
20 offers its customers a myriad of services from the following three main divisions: janitorial
21 services, general property maintenance and repairs, [and] tenant improvements & construction
22 services." Calico offers services in ten states throughout the western United States.

23 18. During their employment with Defendants, Plaintiff and other aggrieved employees
24 served in non-exempt, hourly work.

25 19. Defendants altered the time sheets for Plaintiff and other aggrieved employees,
26 required them to work through meal and rest breaks, and did not pay them at a rate equal to the
27 minimum wage. Additionally, Plaintiff and other aggrieved employees were required to log their
28 time through a time clock app on their phones on a daily basis and were not reimbursed for a

1 reasonable percentage of business expenses, and instead were occasionally paid \$2.00 per hour as
2 reflected in wage statements.

3 20. Based on Plaintiff's own experience and observations, Calico employed dozens if
4 not hundreds of similarly situated employees who likewise used this app and were underpaid.

5 21. As a result of this conduct, Defendants regularly provided inaccurate wage
6 statements to Plaintiff and other aggrieved employees by providing wage statements that
7 inaccurately reflected the total number of hours worked, inaccurately reflected the wage to which
8 Plaintiff and other aggrieved employees were entitled, and inaccurately reflected the total wages
9 owed to them.

10 22. Plaintiff and the other aggrieved employees were denied all wages owed to them
11 upon termination, because Defendants failed to pay them all money withheld from them when they
12 were forced to work off the clock without pay and when they were paid less than a minimum wage.

13 **PAGA ALLEGATIONS**

14 23. This action is brought on behalf of similarly-situated employees at all of
15 Defendants' employees working in California (referred to herein as "similarly-situated
16 employees"), to recover penalties for Defendants' Labor Code violations including failure to pay
17 minimum wages to its employees; failure to indemnify its employees for necessary expenditures
18 incurred by its employees as a direct consequence of the discharge of their duties at the direction
19 of Defendants; failure to provide legally compliant meal and rest periods; failure to provide timely
20 and accurate wage statement; and failure to pay all compensation dues upon discharge.

21 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**

22 Representative Action for Civil Penalties

23 (California Labor Code §§ 2698-2699.5, and Wage Order 5)

24 24. The allegations set forth in this complaint are hereby re-alleged and incorporated
25 by reference.

26 25. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code
27 section 2699(c), and a proper representative to bring a civil action on behalf of Plaintiff and other
28 current and former employees of Defendants pursuant to the procedures specified in California

1 Labor Code section 2699.3, because Plaintiff was employed by Defendants and the alleged
2 violations of the California Labor Code were committed against Plaintiff.

3 26. Pursuant to California Private Attorneys General Act of 2004 (“PAGA”), Labor
4 Code sections 2698 et seq., Plaintiff seeks to recover civil penalties from Defendants in a
5 representative action for the violations set forth above, including but not limited to violations of
6 California Labor Code §§ 201-203, 226 (e), 226.7, 512, 558, 1194, 1194.2, 1197, 1197.1, 2802,
7 2698-2699.5, and IWC Wage Order No. 5. Plaintiff is also entitled to an award of reasonable
8 attorneys’ fees and costs pursuant to Labor Code section 2699(g)(1).

9 27. As prescribed by Labor Code section 2699.3, on or about September 21, 2023,
10 Plaintiff submitted his PAGA claim notice to the Labor and Workforce Development Agency
11 (“LWDA”), including the facts and theories to support the alleged violations. More than sixty-five
12 (65) days have elapsed since the date Plaintiff initially submitted his PAGA claim notice without
13 the LWDA assuming jurisdiction over the claims alleged. Accordingly, Plaintiff has fully satisfied
14 the administrative prerequisites for suit under PAGA. Plaintiff now acts as a private attorney
15 general to collect civil penalties for Defendants’ Labor Code violations. California Labor Code §§
16 2698-2699.5, in relevant part provides, “any provision of this code that provides for a civil penalty
17 to be assessed and collected by the Labor and Workforce Development Agency...for a violation
18 of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved
19 employee on behalf of himself or herself and other current or former employees pursuant to the
20 procedures specified in Section 2699.3.”

21 28. Plaintiff has complied with all of the requirements set forth in Labor Code section
22 2699.3 to commence a representative action under PAGA. Plaintiff therefore seeks to recover all
23 applicable and available PAGA remedies pursuant to Labor Code section 2699, as well as
24 attorneys’ fees, costs and/or other damages as permitted by PAGA through a representative action
25 pursuant to PAGA. Plaintiff is therefore not required to, nor does he, seek class certification of the
26 PAGA claims under Rule 23.

27 29. As a proximate result of the aforementioned violations, Plaintiff and similarly-
28 situated employees have been damaged in an amount according to proof at trial, and seek

1 reimbursement for expenses paid for the benefit of Defendants, interest, penalties, expenses, and
2 costs of suit.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, on behalf of the aggrieved employees, prays for judgment
5 against Defendants, and each of them, in an amount according to proof, as follows:

- 6 A. For penalties in an amount according to proof;
- 7 B. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code
8 section 2699(c), and a proper representative to bring a civil action on behalf of
9 Plaintiff and other current and former employees of Defendants pursuant to the
10 procedures specified in California Labor Code section 2699.3;
- 11 C. That the Court declare that Defendant’s policies and/or practices of refusing to
12 provide meal and rest periods and pay resulting premium (penalty) pay to Plaintiff
13 and the aggrieved employees violated California law;
- 14 D. That the Court declare that Defendant’s policies and/or practices of failing to pay
15 minimum wages to the aggrieved employees violated California law;
- 16 E. That the Court declare that Defendant’s policies and/or practices of refusing to pay
17 for necessary expenditures incurred by its employees as a direct consequence of the
18 discharge of their duties violated California Law;
- 19 F. That the Court declare that Defendant’s policies and/or practices of providing
20 inaccurate itemized wage statements to Plaintiff and the other aggrieved employees
21 violated California law;
- 22 G. That the Court declare that Defendant’s policies and/or practices of refusing to pay
23 all wages due and owing to Plaintiff and the other aggrieved employees promptly
24 upon termination violated California law;
- 25 H. For reasonable attorney’s fees and costs pursuant to the PAGA; and
- 26 I. For all such other and further relief that the court may deem just and proper.

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2 DATED: November 2, 2023
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Respectfully Submitted,

LABOR LAW PC

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7 By: _____
8 Danny Yadidsion, Esq.
9 Noël Harlow, Esq.
10 Attorneys for Plaintiff
11 PEDRO GOMEZ, as a representative of the
12 State of California and the Labor and
13 Workforce Development Agency, and on
14 behalf of other aggrieved employees
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