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Attorneys for Plaintiff and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA

VISENTE E. RIVERA III, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SIERRA PACIFIC INDUSTRIES, INC., a
Delaware corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 23CV-0203610

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR VIOLATION
OF LABOR CODE § 2698, *ET. SEQ.***

DEMAND OVER \$25,000.00

1 On behalf of himself and other similarly situated current and former employees, Plaintiff
2 Visente E. Rivera III (“Plaintiff”), submits this First Amended Representative Action Complaint against
3 Defendant Sierra Pacific Industries, Inc. (“Defendant”), and Does 1 through 50 (collectively,
4 “Defendants”).

5 INTRODUCTION

6 1. This representative action concerns systemic employment practices that violate the
7 California Labor Code. The Complaint seeks penalties, damages, and other relief pursuant to, among
8 other provisions, Labor Code sections 201, 202, 203, 204, 226(a), 510, 558, 1194, 1197, 1197.1, and
9 2698 *et. seq.*

10 2. Plaintiff is informed and believes that Defendants have jointly and severally acted
11 intentionally and with deliberate indifference and conscious disregard to the rights of employees by: (a)
12 failing to pay for all hours worked due to the unlawful rounding of employee time, in violation of Labor
13 Code sections 510, 558, 1194, 1197 and 1197.1; (b) failing to pay overtime wages at 1.5 times the
14 regular rate of pay, in violation of Labor Code sections 510, 558, and 1194; (c) failing to provide
15 accurate, itemized wage statements, in violation of Labor Code section 226(a); and (d) failing to pay
16 employees all earned wages at separation of employment, in violation of Labor Code sections 201, 202,
17 203.

18 3. Plaintiff is informed and believes that Defendant has engaged in, among other things, a
19 system of willful violations of the Labor Code by creating and maintaining policies, practices, and
20 customs that knowingly deny its employees the above stated rights and benefits.

21 JURISDICTION AND VENUE

22 4. The Court has jurisdiction over the violations of the California Labor Code sections 201,
23 202, 203, 204, 226(a), 510, 558, 1194, 1197, 1197.1 and 2698 *et. seq.*, and the applicable Wage Orders.

24 5. Venue is proper in Shasta County because Defendant maintains operations in Shasta
25 Lake, California.

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PARTIES

6. Plaintiff was previously employed by Defendant as a production laborer. He separated employment, on or about October 13, 2023. Throughout his employment Plaintiff worked as an hourly, non-exempt employee.

7. Plaintiff was and is the victims of the policies, practices, and customs of Defendant complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code sections 201, 202, 203, 204, 226(a), 510, 558, 1194, 1197, 1197.1 and 2698 *et. seq.*, and the applicable Wage Orders.

8. Plaintiff is informed and believes that Sierra Pacific Industries, Inc., was and is a Delaware corporation that maintains operations in the State of California, including in Shasta County, California.

9. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Does 1 through 50, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to the California Labor Code.

10. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused Plaintiff and aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

11. At all times herein mentioned, each defendant participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants, and each of them, were the agents, servants and employees of each of the other defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

12. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

13. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

14. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

16. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from October 30, 2022, through the present, for Defendant's policy and practice of: (a) failing to pay for all hours worked due to the unlawful rounding of employee time, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1; (b) failing to pay overtime wages at 1.5 times the regular rate of pay, in violation of Labor Code sections 510, 558, and 1194; (c) failing to provide accurate, itemized wage statements, in violation of Labor Code section 226(a); and (d) failing to pay employees all earned wages at separation of employment, in violation of Labor Code sections 201, 202, and 203.

1 17. As a pattern and practice, Defendant suffered and permitted Aggrieved Employees to
2 work without payment of wages for all hours worked in a workday and workweek. Specifically, as a
3 pattern and practice, Defendant rounded Aggrieved Employees' work hours. As a result, Defendant
4 failed to pay for every minute that Aggrieved Employees worked. Aggrieved Employees are owed
5 unpaid minimum and overtime wages.

6 18. As a separate overtime violation, Defendant failed to calculate and pay overtime wages
7 at the correct regular rate of pay. During workweeks when Aggrieved Employees worked in excess of
8 eight hours in a workday and/or forty hours in a workweek and earned two or more hourly rates, the
9 overtime wages were not paid at 1.5 times the regular rate of pay. As a result of such policy and
10 practice, Defendant underpaid overtime wages to Aggrieved Employees and thus owes additional
11 overtime wages.

12 19. Pursuant to Labor Code section 226(a), the wage statements provided to Aggrieved
13 Employees should have reflected all hours worked, the applicable hourly rates of pay for all payments
14 and gross and net wages earned. However, the wage statements provided to Aggrieved Employees
15 failed to identify such information. More specifically, due to the underpayment and/or nonpayment of
16 minimum and overtime wages, the wages statements identified incorrect hours worked, wage rates and
17 net and gross wages earned, in violation of Labor Code section 226(a)

18 20. On or about October 30, 2022, Plaintiff sent written notice to the California Labor &
19 Workforce Development Agency ("LWDA") of Defendant's violation of Labor Code sections 201, 202,
20 203, 204, 226(a), 510, 558, 1194, 1197 and 1197.1, pursuant to Labor Code section 2698, *et seq.*, the
21 Private Attorneys General Act ("PAGA").

22 21. Plaintiff also sent written notice of said Labor Code violations to Defendant via certified
23 mail pursuant to Labor Code section 2699.3. As of the date of the filing of this Complaint, the LWDA
24 has not provided written notice regarding whether it intends to investigate the Labor Code violations set
25 forth in Plaintiffs' written notices.

26 22. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all
27 applicable civil penalties for Defendant's violation of Labor Code sections 201, 202, 203, 204, 226(a),
28 510, 558, 1194, 1197 and 1197.1 for the time period described above, on behalf of himself and other

1 Aggrieved Employees.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment for Plaintiff and all others on whose behalf this suit
4 is brought against Defendants, jointly and severally, as follows:

5 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to the
6 PAGA, Labor Code section 226.3, and for costs and attorneys' fees;

7 2. On all causes of action for attorneys' fees and costs as provided by Labor Code section
8 2699 and California Code of Civil Procedure section 1021.5; and

9 3. For such other and further relief that the Court may deem just and proper.

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11
12 DATED: February 13, 2024

DIVERSITY LAW GROUP, P.C.

13 By: _____

14 Larry W. Lee

Kristen M. Agnew

15 Nick Rosenthal

16 Attorneys for Plaintiff and the Aggrieved Employees
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STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

On February 13, 2024, I served the following document(s) described as: **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT FOR VIOLATION OF LABOR CODE § 2698, ET. SEQ.** on the interested parties in this action as follows:

John R. Powell Lisa Morrison Maire & Deedon 2851 Park Marina Drive, Suite 300 Redding, California 96001	<i>Attorneys for Defendant Sierra Pacific Industries, Inc.</i> jpowell@maire-law.com lmorrison@maire-law.com
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 13, 2024, at Los Angeles, California.


Erika Mejia