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MARIA GUADALUPE MENDEZ, on behalf of herself and all similarly aggrieved employees

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 12/11/2024 10:28 AM
By: Errol Rimando, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY

MARIA GUADALUPE MENDEZ,

Plaintiff,

v.

JUQUILITA MARKET, INC.; and DOES 1
through 50, inclusive,

Defendants.

Case No. 24CV005255
REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL PENALTIES

1 Plaintiff MARIA GUADALUPE MENDEZ, on behalf of herself and all current and
2 former similarly aggrieved employees (“Employees”) and members of the public, complains
3 and alleges as follows:

4 1. Plaintiff Maria Guadalupe Mendez (“Plaintiff”) is a competent adult who is, and
5 at all times mentioned in this complaint has been, a resident of Monterey County, California.
6 Plaintiff was employed by Defendants from approximately October 2, 2022, through
7 approximately July 30, 2023, pursuant to an unwritten contract, some of the terms of which
8 were the product of an oral agreement, with other terms implied from or incorporated from
9 written materials and policies maintained by Defendants and from the conduct of the parties.
10 The terms of this contract included working as a non-exempt employee, and at all times as an
11 employee not exempted from the California Labor Code. Plaintiff is, and at all relevant times
12 was, an individual as defined in Business and Professions Code §§ 17201 and 17204.

13 2. Defendant Juquilita Market, Inc. (“JUQUILITA”) is, and at all times mentioned
14 in this complaint has been, a corporation incorporated under the laws of the State of California
15 and registered to do business in the State of California. Plaintiff is informed and believes and
16 thereon alleges that JUQUILITA is authorized to and does conduct business throughout the
17 State of California and has purposefully availed itself of the privileges and benefits of doing
18 business in the State of California.

19 3. Plaintiff is ignorant of the true names, identities, capacities and relationships of
20 the Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these
21 defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges,
22 that each of these fictitiously named defendants are responsible in some manner for the
23 occurrences herein alleged, and that Plaintiff’s damages as herein alleged were proximately
24 caused by DOES 1 through 50. Plaintiff will amend this Complaint to allege the true names
25 and capacities of said DOE Defendants when such information is ascertained. Each reference
26 to “Defendants,” and each reference to any particular Defendant herein, shall be construed to
27 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
28 “DOE” Defendant, and each of them.

1 4. Plaintiff is informed and believes, and thereon alleges, that each of the
2 Defendants herein was at all times relevant to this action the agent, employee, representative,
3 partner, and/or joint venturer of the remaining Defendants, and each of them, and that each of
4 the Defendants herein was at all times acting within the course and scope of that relationship.
5 Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants
6 herein consented to, ratified, and/or authorized the acts of each of the remaining Defendants
7 herein. The conduct of each of the Defendants was at all times herein in accordance with and
8 represents the official policy of Defendants. Additionally, at all times herein mentioned,
9 Defendants, and each of them, aided and abetted the acts and omissions of each and all of the
10 other Defendants, which proximately caused the damages herein alleged. Plaintiff is further
11 informed and believes, and thereon alleges, that all of the Defendants jointly employed the
12 Plaintiff herein and/or carried out a joint scheme, business plan and/or uniform policy, and the
13 acts and omissions of each Defendant are legally attributable to the other Defendants such that
14 they are deemed a single integrated enterprise and agents of one another so that all Defendants
15 are each jointly and severally liable for the acts and omissions hereinafter alleged.

16 5. Defendants JUQUILITA and DOES 1 through 50 (collectively referred to herein
17 as “Defendants”) are, and at all times herein were, “persons” as defined in California Business
18 and Professions Code § 17201.

19 6. At all times herein, Defendants directly or indirectly, or through an agent or
20 representative, exercised control over the wages, hours and/or working conditions of the
21 Plaintiff, and directly or indirectly or through an agent or other person engaged, suffered, or
22 permitted Plaintiff to work.

23 **JURISDICTION AND VENUE**

24 7. Plaintiff brings this Complaint for violations of California law occurring in this
25 County, including without limitation violations of the California Labor Code, Business and
26 Professions Code, Civil Code and common law, and the amount in controversy exceeds the
27 minimum jurisdictional amount of the Superior Court. Based on information and belief,
28 Defendants have intentionally availed themselves of the benefits and privileges available

1 within this State, economic or otherwise, so as to render the exercise of jurisdiction over them
2 by the courts of the State of California consistent with traditional notations of fair play and
3 substantial justice. Accordingly, this Court has jurisdiction over the parties and claims in this
4 matter.

5 8. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
6 district because Defendants now, and all times relevant herein, reside and/or transact business
7 in the County of Monterey. The conduct alleged herein and the damages resulting therefrom
8 occurred in the County of Monterey, and at all times herein Defendants maintained their
9 principal place of business in the County of Monterey, California.

10 **ADMINISTRATIVE PROCEEDINGS**

11 9. Pursuant to California Labor Code § 2699.3, Plaintiff gave written notice on
12 October 26, 2023, by electronic filing with the Labor and Workforce Development Agency,
13 and by certified mail to JUQUILITA of the factual and legal basis for the labor law violations
14 alleged in this Complaint.

15 10. Pursuant to California Labor Code § 2699.3, Plaintiff seeks all applicable
16 penalties for violations which the Labor and Workforce Development Agency has failed or
17 elected not to investigate and/or failed or elected not to issue a citation. Plaintiff has
18 exhausted all administrative remedies required by the Labor and Workforce Development
19 Agency as a prerequisite to filing this action.

20 **GENERAL ALLEGATIONS**

21 11. Defendants now, and at all times did, own, operate and control a company that
22 employs persons within the meaning of all applicable wage orders, including, but not limited
23 to, IWC Wage Order No. 7-2001 (California Code of Regulations, title 8, section 11070) (“the
24 Wage Order”).

25 12. At all times relevant herein, Plaintiff and the Employees were non-exempt
26 employees of Defendants under the California Labor Code and were protected by to the
27 provisions of the Wage Order.

28 13. At all times relevant herein, Plaintiff and the Employees worked for Defendants

1 without the provision of being compensated for all hours worked, without being paid overtime
2 premium wages for all overtime hours worked, without being paid all wages on time, working
3 without meal or rest breaks as required by law, without being compensated for missed meal
4 and rest breaks, without being paid the full payment of wages owed at the end of their
5 employment, and without having been provided with complete and accurate wage statements
6 as required by law.

7 14. At all times relevant herein, Defendants maintained and enforced a uniform
8 policy by which they regularly and consistently precluded Plaintiff and the Employees from
9 leaving the work premises during their rest periods. As such, Plaintiff and the Employees
10 were not provided with off-duty rest periods as they were still subject to Defendant's control.

11 15. At all times relevant herein, Defendants maintained and enforced a uniform
12 policy by which they regularly and consistently failed to pay Plaintiff and the Employees their
13 final wages on the last date of their employment. Rather, Defendant waited until the next
14 normal payroll cycle to pay Plaintiff and the Employees their final wages despite their
15 employment having ended previously due to the completion of the assignment.

16 16. At all times relevant herein, Defendants maintained and enforced a uniform
17 policy of requiring Plaintiff and the Employees to work shifts of five hours or more within a
18 single workday without providing a thirty (30) minute uninterrupted duty-free meal period
19 within five (5) hours of the beginning of their shift. Defendants also failed to pay Plaintiff and
20 the Employees one hour of pay at Plaintiff's and Employees' regular rate of compensation as
21 required by California Labor Code § 226.7 and the Wage Order for each meal period that was
22 not provided.

23 17. Likewise, at all times relevant herein, Defendants maintained and enforced a
24 uniform policy by which they repeatedly failed to authorize, permit and provide Plaintiff and
25 the Employees with paid duty-free rest periods of at least ten (10) consecutive uninterrupted
26 minutes during which Plaintiff and the Employees were relieved of all duties for every four (4)
27 hours worked or major fraction thereof and which were counted as hours worked for which
28 there would be no deduction from wages, and failed to compensate Plaintiff and the

1 Employees one (1) hour of wages at their regular rate of compensation as required by
2 California Labor Code § 226.7 and the Wage Order for each rest period not provided.

3 18. At all times relevant herein, Defendants maintained and enforced a uniform
4 policy by which they regularly and consistently failed to pay Plaintiff and the Employees
5 overtime premium wages of one and one-half times the employee's regular rate of pay for all
6 overtime hours worked in a single workday and/or a single workweek, as required by
7 California Labor Code §§ 510 and 1194 and the Wage Order.

8 19. At all times relevant herein, Defendants maintained and enforced a uniform
9 policy by which they regularly and consistently violated Labor Code § 2802 by failing to
10 reimburse Plaintiff and the Employees for all business expenses, including phone-related
11 expenses incurred in connection with mandatory work-related phone calls.

12 20. At all times relevant herein, Defendants maintained and enforced a uniform
13 policy by which they regularly and consistently failed to provide Plaintiff and the Employees
14 with complete and accurate itemized wage statements stating the total hours worked, regular
15 and overtime hours worked, gross wages earned, net wages earned, all applicable rates of pay
16 and the corresponding number of hours worked under each rate, all deductions, wages owed
17 for missed rest and meal periods, and accurate accounting for all wages paid to Plaintiff and
18 the Employees. Defendants also failed to record in ink or other identifiable form all
19 deductions from wages showing the month, day and year, and failed to keep a copy of the
20 statements and records of deductions for three years at the place of employment or at a central
21 location in the State of California. Defendants also failed to keep accurate information with
22 respect to each employee, including full name, home address, occupation, birth date, time
23 records showing when the employee begins and ends each work period, meal periods, total
24 daily hours worked and total wages paid each payroll period, including value of board,
25 lodging, or other compensation actually furnished to the employee.

26 21. At all times relevant herein, Defendants maintained and enforced a uniform
27 policy by which they regularly and consistently violated California Labor Code §§ 201,
28 202, 204, 216, 218, 221, 223, 1194, 1198 and the Wage Order by unlawfully refusing to pay

1 wages to Plaintiff and the Employees.

2 22. At all times relevant herein, Defendants maintained and enforced a uniform
3 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
4 and 203 by failing to pay Plaintiff and the Employees all owing and unpaid wages for work
5 performed by them during their employment and at the end of their employment.

6 23. At all times relevant herein, Defendants maintained and enforced a uniform
7 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
8 204, 218, 1194, 1198, 1199 and the Wage Order by failing to pay Plaintiff and the Employees
9 for all hours worked, overtime premium wages for all overtime hours worked, and
10 compensation for missed meal and rest periods,

11 24. Plaintiff and the Employees are informed and believe, and thereon allege, that at
12 all times herein mentioned, Defendants were advised by skilled lawyers and other
13 professionals, employees and advisors knowledgeable about California labor and wage law,
14 employment and personnel practices, and about the requirements of California law. Plaintiff
15 and the Employees are informed and believe, and thereon allege, that at all times relevant
16 herein, Defendants knew or should have known that they had a duty to compensate Plaintiff
17 and the Employees, and that Defendants had the financial ability to pay such compensation,
18 but willfully, knowingly and intentionally failed to do so, and falsely represented to Plaintiff
19 and the Employees that they were properly denied wages, all in order to increase Defendants'
20 profits.

21 25. California Labor Code § 218 states that nothing in Article I of the Labor Code
22 shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to
23 him under this Article.”

24 **FIRST CAUSE OF ACTION**

25 **California Labor Code Private Attorneys General Act of 2004**
26 **(California Labor Code § 2698)**
27 **(Plaintiff and the Aggrieved Employees against JUQUILITA)**

28 26. Plaintiff alleges and incorporates by reference all of the allegations contained in
the preceding paragraphs as though fully set forth herein.

27 27. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiff to recover

1 civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code
2 Section 2699.5.

3 28. Plaintiff is an “aggrieved employee” pursuant to Labor Code § 2699, as Plaintiff
4 has suffered violations including, but not limited to, Labor Code §§ 201, 201.3, 202, 203, 204,
5 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194,
6 1197, 1197.1, 1198, 1199, 2699, 2698, 2800, 2802, and the Wage Order.

7 29. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3,
8 and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks
9 assessment and collection of civil penalties for Plaintiff and the employees, and the State of
10 California against Defendants on behalf of herself and the employees.

11 30. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, prays as follows:

14 1. As to the First Cause of Action, for civil penalties and attorneys’ fees pursuant to
15 Labor Code § 2698 et seq., and Labor Code § 226.3;

16 2. For all reasonable attorneys’ fees and costs of suit incurred herein pursuant to
17 California Labor Code § 2699(g); and

18 3. For such other further relief as the Court may deem equitable and appropriate
19

20 Dated: December 11, 2024

FITZPATRICK & SWANSTON

21 By: /s/ B. James Fitzpatrick

22 B. James Fitzpatrick

23 Laura L. Franklin

24 Attorneys for Plaintiff,

Maria Guadalupe Mendez on behalf of

herself and all similarly aggrieved employees
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