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County of San Joaquin
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Attorneys for Plaintiff AMBER MALDONADO,
on behalf of herself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

AMBER MALDONADO, on behalf of herself
and current and former aggrieved employees

Plaintiff,

vs.

INTERNATIONAL PAPER COMPANY; and
DOES 1 to 100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2024-0000528

PAGA ACTION

**PLAINTIFF AMBER
MALDONADO'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff AMBER MALDONADO ("Plaintiff"), who alleges and
complains against Defendants INTERNATIONAL PAPER COMPANY; and DOES 1 to 100,
inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage; failure to authorize or permit all legally required and/or
2 compliant meal periods or pay meal period premium wages; failure to authorize or permit all
3 legally required and/or compliant rest periods or pay rest period premium wages; statutory
4 penalties for failure to provide accurate wage statements; statutory waiting time penalties in the
5 form of continuation wages for failure to timely pay employees all wages due upon separation of
6 employment. Plaintiff seeks on a representative basis, following notice to the Labor and
7 Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor
8 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
9 others aggrieved.

10 **II. JURISDICTION AND VENUE**

11 1. This Court has jurisdiction over the claims of Plaintiff and all other current and
12 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
13 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
14 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
15 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
16 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
17 aggrieved California-based hourly non-exempt employees occurred in locations throughout
18 California, including but not limited to San Joaquin County, at 400 Valpico Rd., Tracy, CA 95376.

19 2. In response to the COVID-19 pandemic, the Judicial Council of California enacted
20 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
21 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
22 tolled from April 6, 2020, until October 1, 2020.

23 **III. PARTIES**

24 3. Plaintiff brings this action as a representative of the Labor and Workforce
25 Development Agency on behalf of herself and other current and former employees subject to
26 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
27 filed include current, former and/or future employees of Defendants who work, worked, or will
28 work for Defendants as direct employees as well as temporary employees employed through temp

1 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
2 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
3 employed by Defendants in an hourly position at Defendants' location in San Joaquin from in or
4 around February 17, 2017 until on or about January 23, 2023.

5 4. Plaintiff is informed and believes and thereon alleges that Defendant
6 INTERNATIONAL PAPER COMPANY is authorized to do business within the State of
7 California and is doing business in the State of California and/or that Defendants DOES 1-50 are,
8 and at all times relevant hereto were persons acting on behalf of Defendant INTERNATIONAL
9 PAPER COMPANY in the establishment of, or ratification of, the aforementioned illegal wage
10 and hour practices or policies. Defendant INTERNATIONAL PAPER COMPANY operates in
11 San Joaquin County and employed Plaintiff and aggrieved employees in San Joaquin County,
12 including but not limited to, at 400 Valpico Rd., Tracy, CA 95376.

13 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
14 through 50 are corporations, or are other business entities or organizations of a nature unknown to
15 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
16 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
17 working conditions of employment of Plaintiff and aggrieved employees.

18 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
19 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
20 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
21 supervisor, independent contractor and/or employee of each defendant who violated or caused to
22 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
23 the Industrial Welfare Commission's wage orders regulating hours and days of work.

24 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
25 sues said defendants by said fictitious names, and will amend this complaint when the true names
26 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
27 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
28 named defendants is in some manner responsible for the events and allegations set forth in this

1 complaint.

2 8. Plaintiff makes the allegations in this complaint without any admission that, as to
3 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
4 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

5 **FIRST CAUSE OF ACTION**

6 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
7 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

8 **(Against all Defendants by Plaintiff)**

9 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

10 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
11 Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 512, 1194, 1197, and the
12 applicable Wage Orders.

13 11. Specifically, Defendants have committed the following violations of California
14 Labor Code:

15 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
16 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
17 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
18 which includes all time that an employee is under control of the employer and all time the
19 employee is suffered and permitted to work. This includes the time an employee spends, either
20 directly or indirectly, performing services which inure to the benefit of the employer.

21 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
22 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
23 Wage Orders.

24 14. In this case, Plaintiff and other current and former aggrieved California-based
25 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
26 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
27 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
28 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but

not limited to:

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to travel off-the-clock to a designated area for meal breaks.

15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to be subject to Defendants' control without paying wages for that time. This resulted in Plaintiff and other current and former aggrieved California-based hourly non-exempt employees working time for which they were not compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable Wage Order.

16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services that inure to the benefit of the employer.'

17. Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

18. **Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other current and former aggrieved California-based hourly non-exempt employees regularly worked shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

1 19. California law requires an employer to authorize or permit an employee an
2 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
3 all duties and the employer relinquishes control over the employee's activities prior to the
4 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 1 at §11; *Brinker*
5 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
6 employee for a work period of more than ten (10) hours per day without providing the employee
7 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
8 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
9 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
10 period is only permitted when: (1) the nature of the work prevents an employee from being
11 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

12 20. If an employer fails to provide an employee a meal period in accordance with the
13 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
14 for each workday that a legally required and compliant meal period was not provided. Labor Code
15 section 226.7; Wage Order 1 at §11.

16 21. In this case, Defendants failed to authorize or permit legally required and compliant
17 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
18 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
19 limited to:

20 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
21 non-exempt employees to travel to a designated area away from their workstations during their
22 meal periods. Employers did not elongate or otherwise extend Plaintiff's and other current and
23 former aggrieved California-based hourly non-exempt employees' meal period times to account
24 for travel time between their workstations and the designated break area resulting in meal breaks
25 less than thirty (30) minutes.

26 22. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
27 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
28 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each

1 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
2 employees did not receive legally required and compliant meal periods, in violation of Labor Code
3 section 226.7.

4 23. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
5 and other current and former aggrieved California-based hourly non-exempt employees not
6 receiving wages to compensate them for workdays during which Defendants did not provide them
7 with meal periods in compliance with California law.

8 24. **Failure to pay wages to hourly non-exempt employees for workdays that**
9 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
10 current and former aggrieved California-based hourly non-exempt employees regularly worked
11 shifts of more than three-and-a-half (3.5) hours.

12 25. California law requires every employer to authorize and permit an employee a rest
13 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
14 Code section 226.7; Wage Order 1 at §12. Under California law, "[e]mployees are entitled to 10
15 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
16 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
17 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
18 section 226.7; Wage Order 1 at §12. Rest periods, insofar as practicable, shall be in the middle of
19 each work period. Wage Order 1 at §12. Additionally, the rest period requirement "obligates
20 employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM*
21 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
22 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

23 26. If the employer fails to authorize or permit a required rest period, the employer
24 must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday
25 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
26 Wage Order 1 at § 12.

27 27. In this case, Defendants failed to authorize or permit all legally required and
28 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly

1 non-exempt employees due to Defendants' policies, practices, and/or procedures including, but not
2 limited to:

3 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
4 non-exempt employees to travel to designated area during their rest periods, Employers did not
5 elongate or otherwise extend Plaintiff's and other current and former aggrieved California-based
6 hourly non-exempt employees' rest period times to account for travel time between their
7 workstations and the designated break area resulting in rest periods less than a net 10-minutes.

8 28. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
9 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
10 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
11 workday they did not receive legally required and compliant rest periods, in violation of Labor
12 Code section 226.7.

13 29. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
14 and other current and former aggrieved California-based hourly non-exempt employees not
15 receiving wages to compensate them for workdays in which Defendants did not provide them with
16 rest periods in compliance with California law.

17 30. **Failure to timely pay earned wages during employment:** In California, wages
18 must be paid at least twice during each calendar month on days designated in advance by the
19 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
20 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
21 16th and the 26th day of that month and wages earned between the 16th and the last day,
22 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
23 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
24 paid within seven (7) calendar days following the close of the payroll period in which wages were
25 earned. Labor Code section 204(d).

26 31. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
27 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
28 exempt employees' earned wages (including minimum wages, meal period premium wages,

1 and/or rest period premium wages), in violation of Labor Code section 204. Defendants'
2 aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiff's and
3 other current and former aggrieved California-based hourly non-exempt employees' their earned
4 wages within the applicable time frames outlined in Labor Code section 204.

5 **32. Failure to provide complete and accurate wage statements:** Labor Code section
6 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
7 employee his or her wages, the employer must "furnish each of his or her employees ... an
8 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
9 employee, except for any employee whose compensation is solely based on a salary and who is
10 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
11 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
12 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
13 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
14 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
15 name of the employee and his or her social security number, (8) the name and address of the legal
16 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
17 the corresponding number of hours worked at each hourly rate by the employee."

18 **33.** As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
19 and other current and former aggrieved California-based hourly non-exempt employees all wages
20 earned (including minimum wages, meal period premium wages, and/or rest period premium
21 wages), rendered Plaintiff's and other current and former aggrieved California-based hourly non-
22 exempt employees' wage statements inaccurate, in violation of Labor Code section 226.

23 **34. Failure to pay employees all wages due at time of termination/resignation:** An
24 employer is required to pay all unpaid wages timely after an employee's employment ends. The
25 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
26 hours of resignation (Labor Code section 202).

27 **35.** As a derivative of Plaintiff's allegations above, because Defendants failed to pay
28 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees

1 all their earned wages (including minimum wages, meal period premium wages, and/or rest period
2 premium wages), Defendants failed to pay those employees timely after each employee's
3 termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

4 36. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
5 employee, on behalf of himself or herself and other current or former employees, to bring a civil
6 action to recover civil penalties against all Defendants pursuant to the procedures specified in
7 Labor Code section 2699.3.

8 37. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code section 2699.3. On November 8, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
10 and provided notice to Defendants by certified mail which provided notice of the specific
11 provisions of the Labor Code alleged to have been violated, including the facts and theories to
12 support the violations alleged.

13 38. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
14 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
15 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
16 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
17 to investigate Plaintiff's claims.

18 39. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
19 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 512,
20 1194, 1197, During Plaintiff's employment and continuing through the present, preceding Plaintiff
21 sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

22 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, one
23 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
24 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
25 violation [penalty amounts established by Labor Code section 2699(f)(2)].

26 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
27 for each employee for each pay period for the initial violation, and for each subsequent violation,
28 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts

1 established by Labor Code section 226.3].

2 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
3 employee for each pay period for the initial violation, and for each subsequent violation, one
4 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
5 established by Labor Code section 558].

6 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
7 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
8 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
9 period [penalty amounts established by Labor Code section 1197.1].

10 40. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
11 reasonable attorneys' fees and costs in connection with her claims for civil penalties.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER**
14 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

15 **ON THE FIRST CAUSE OF ACTION:**

16 1. That Defendants be found to have violated the provisions of the Labor Code and
17 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

18 2. For any and all legally applicable penalties during the relevant statute of limitations
19 subject to any permissible tolling, including but not limited to those recoverable under the
20 California Labor Code, including but not limited to section 2699(f);

21 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
22 under California Labor Code section 2699(g); and

23 4. For such and other further relief, in law and/or equity, as the Court deems just or
24 appropriate

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Dated: January 16, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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