

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Colby A. Meagle, Esq. (SBN 328594)
Cassandra A. Castro, Esq. (SBN 334238)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
cmeagle@lelawfirm.com
ccastro@lelawfirm.com

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Attorneys for Plaintiff QUANZA BERRY,
on behalf of herself and current and former aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES- CENTRAL DISTRICT

QUANZA BERRY, on behalf of herself and
current and former aggrieved employees

Plaintiff,

vs.

US TOOL GRINDING, INC.; and DOES 1 to
100, inclusive,

Defendants.

Case No.: **24STCV04618**

PAGA ACTION

**PLAINTIFF QUANZA BERRY'S
COMPLAINT FOR:**

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

COMES NOW Plaintiff QUANZA BERRY ("Plaintiff"), who alleges and complains
against Defendants US TOOL GRINDING, INC.; 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
hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally

1 required and legally compliant meal and rest periods, failure to timely pay earned wages during
2 employment, failure to produce requested employment records failure to provide complete and
3 accurate wage statements, failure to timely pay all unpaid wages following separation of
4 employment. Plaintiff seeks on a representative basis, following notice to the Labor and
5 Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor
6 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
7 others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to Los Angeles County, at 650 St. Andrew's Way, Palmdale,
17 CA 93551.

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

22 **III. PARTIES**

23 4. Plaintiff brings this action as a representative of the Labor and Workforce
24 Development Agency on behalf of herself and other current and former employees subject to
25 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
26 filed include current, former and/or future employees of Defendants who work, worked, or will
27 work for Defendants as direct employees as well as temporary employees employed through temp
28 agencies as hourly non-exempt employees in California. At all times mentioned herein, the

1 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
2 employed by Defendants in an hourly position at Defendants' location in Palmdale from
3 approximately December 19, 2022, until on or about August 1, 2023.

4 5. Plaintiff is informed and believes and thereon alleges that Defendant US TOOL
5 GRINDING, INC. is authorized to do business within the State of California and is doing business
6 in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto
7 were persons acting on behalf of Defendant US TOOL GRINDING, INC. in the establishment of,
8 or ratification of, the aforementioned illegal wage and hour practices or policies. Defendant US
9 TOOL GRINDING, INC. operates in Los Angeles County and employed Plaintiff and aggrieved
10 employees in Los Angeles County, including but not limited to, at 650 St. Andrews Way,
11 Palmdale, CA 93551.

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

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

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

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

FIRST CAUSE OF ACTION

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

(Against all Defendants by Plaintiff)

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

11. During Plaintiff's employment and continuing through the present, Plaintiff alleges Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and the applicable Wage Orders.

12. Specifically, Defendants have committed the following violations of California Labor Code:

13. **Failure to pay wages for all hours worked at the legal minimum wage:** 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 which inure to the benefit of the employer.

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

15. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

1 (a) on occasions when Defendants' timeclocks were not working, Defendants' tracked
2 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees'
3 clock in and clock out times by hand, "rounding" down or "shaving" Plaintiff and other current
4 and former aggrieved California-based hourly non-exempt employees' clock-in and clock-out
5 times for the start and end of their shifts to the nearest quarter of an hour, to the benefit of
6 Defendants.

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

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

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

22 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
23 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
24 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
25 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
26 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
27 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
28 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.

19. In this case, Defendants failed to pay Plaintiff and other current and former

1 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
2 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

3 (a) on occasions when Defendants' timeclocks were not working, Defendants' tracked
4 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees'
5 clock in and clock out times by hand, "rounding" down or "shaving" Plaintiff and other current
6 and former aggrieved California-based hourly non-exempt employees' clock-in and clock-out
7 times for the start and end of their shifts to the nearest quarter of an hour, to the benefit of
8 Defendants.

9 20. The foregoing policies, practices, and/or procedures resulted in time during each
10 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
11 employees were under the control of Defendants but were not compensated. To the extent that the
12 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
13 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
14 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
15 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
16 sections 510 and 1194 and the applicable Wage Order.

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

21 22. California law requires an employer to authorize or permit an employee an
22 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
23 all duties and the employer relinquishes control over the employee's activities prior to the
24 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 5 at §11; *Brinker*
25 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
26 employee for a work period of more than ten (10) hours per day without providing the employee
27 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
28 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period

1 shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal
2 period is only permitted when: (1) the nature of the work prevents an employee from being
3 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

4 23. If an employer fails to provide an employee a meal period in accordance with the
5 law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay
6 for each workday that a legally required and compliant meal period was not provided. Labor Code
7 section 226.7; Wage Order 5 at §11.

8 24. In this case, Defendants failed to authorize or permit legally required and compliant
9 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
10 exempt employees due to Defendants’ policies, practices, and/or procedures, including but not
11 limited to:

12 (a) failing to authorize or permit Plaintiff and other current and former aggrieved
13 California-based hourly non-exempt employees a second uninterrupted duty-free meal period of
14 no less than thirty (30) minutes for each five-hour period of work as required by law.

15 25. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
16 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
17 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
18 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
19 employees did not receive legally required and compliant meal periods, in violation of Labor Code
20 section 226.7.

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

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

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

12 29. If the employer fails to authorize or permit a required rest period, the employer
13 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
14 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
15 Wage Order 5 at § 12.

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

20 (a) failing to authorize or permit Plaintiff and other current and former aggrieved
21 California-based hourly non-exempt employees any uninterrupted duty-free rest periods of a net
22 ten (10) minutes for shifts exceeding four (4) hours. Defendants’ rest break policy required
23 employees to remain on their premises during rest breaks, the continued exercise of control over
24 how employees spent their rest breaks rendered them on-duty.

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

1 Code section 226.7.

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

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

15 34. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
16 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
17 exempt employees' earned wages (including minimum wages, overtime wages, meal period
18 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
19 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
20 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
21 their earned wages within the applicable time frames outlined in Labor Code section 204.

22 35. **Failure to provide complete and accurate wage statements:** Labor Code section
23 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
24 employee his or her wages, the employer must "furnish each of his or her employees ... an
25 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
26 employee, except for any employee whose compensation is solely based on a salary and who is
27 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
28 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable

1 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
2 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
3 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
4 name of the employee and his or her social security number, (8) the name and address of the legal
5 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate by the employee.”

7 36. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
8 and other current and former aggrieved California-based hourly non-exempt employees all wages
9 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
10 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
11 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
12 section 226.

13 37. **Failure to pay employees all wages due at time of termination/resignation:** An
14 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
15 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
16 hours of resignation (Labor Code section 202).

17 38. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
18 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
19 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
20 and/or rest period premium wages), Defendants failed to pay those employees timely after each
21 employee’s termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

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

26 40. Plaintiff has complied with the procedures for bringing suit specified in Labor
27 Code section 2699.3. On December 19, 2023, Plaintiff filed a PAGA Claim Notice with the
28 LWDA and provided notice to Defendants by certified mail which provided notice of the specific

provisions of the Labor Code alleged to have been violated, including the facts and theories to support the violations alleged.

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

42. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, and 1197, During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

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

b. For violations of Labor Code section 226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

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

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

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

PRAYER FOR RELIEF

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

ON THE FIRST CAUSE OF ACTION:

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

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

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

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

Dated: February 23, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By:

Colby A. Meagle-Dum

Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Colby A. Meagle, Esq.
Cassandra A. Castro, Esq.
Attorneys for Plaintiff
QUANZA BERRY,
on behalf of herself and current and former
aggrieved employees