

APR 02 2024

Harut Voskanyan, Esq., State Bar No. 327888
HVoskanyan@Voskanyanlaw.com
VOSKANYAN LAW FIRM, PC.
303 N Glenoaks Boulevard, Suite 200
Burbank, California 91502
Telephone Number: (213) 296-2681
Facsimile Number: (213) 296-2691

Attorneys for Plaintiffs

VENTURA SUPERIOR COURT

FILED

04/02/2024

Brenda L. McCormick
Executive Officer and Clerk

Hannah Cressy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

ENRIQUE GARCIA, DIEGO MARTINEZ,
ANDREW ROMERO, individually, and on
behalf of other aggrieved employees
pursuant to the California Private Attorneys
General Act;

Plaintiff,

vs.

BLUETRITON BRANDS, INC.; and DOES
1 to 25, inclusive,

Defendants.

Case No.: 2024CUOE022969

**COMPLAINT FOR ENFORCEMENT UNDER
THE PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE § 2698, ET SEQ.**

Violation of California Labor Code § 2698, et seq.
(California Labor Code Private Attorneys General
Act of 2004)

DEMAND FOR JURY TRIAL

Ry Fox

1 COME NOW, Plaintiffs ENRIQUE GARCIA, DIEGO MARTINEZ, and ANDREW ROMERO
2 (“Plaintiffs”), individually, and on behalf of other aggrieved employees pursuant to the California Private
3 Attorneys General Act (“PAGA”), and allege on the basis of personal knowledge and/or information and
4 belief:

6 JURISDICTION AND VENUE

7 1. Plaintiffs bring this action against Defendant BLUETRITON BRANDS, INC. and DOES 1 to
8 25 (hereinafter collectively referred to as “Defendants”) to recover penalties for California Labor Code
9 violations stemming from Defendants’ failure to pay minimum and straight time wages, failure to pay
10 overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to
11 maintain accurate records of hours worked and meal periods, failure to timely pay all wages to terminated
12 employees, failure to furnish complete and accurate wage statements, failure to timely pay all wages
13 during employment, failure to keep complete and accurate payroll records, and failure to reimburse
14 necessary business-related expenses and costs.

15 2. This representative action is brought pursuant to the California Labor Code section 2698,
16 et seq. The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior
17 Court and will be established according to proof at trial.

18 3. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI,
19 Section 10, which grants the superior court “original jurisdiction in all other causes” except those given
20 by statute to other courts. The statutes under which this action is brought do not specify any other basis for
21 jurisdiction.

22 4. This Court has jurisdiction over Defendants because, upon information and belief, Defendants
23 are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally
24 avail themselves of the California market so as to render the exercise of jurisdiction over it by California
25 courts consistent with traditional notions of fair play and substantial justice.

26 5. Venue is proper in this Court because, upon information and belief, Defendants maintain
27 offices, have agents, employ individuals, and/or transact business in the State of California, County of
28 Ventura.

1 **PARTIES**

2 6. Plaintiff ENRIQUE GARCIA is, and at all times mentioned in this Complaint was, a resident
3 of the County of Ventura, California. Plaintiff DIEGO MARTINEZ is, and at all times mentioned in this
4 Complaint was, a resident of the County of Ventura, California. Plaintiff ANDREW ROMERO is, and at
5 all times mentioned in this Complaint was, a resident of the County of Ventura, California.

6 7. Defendant BLUETRITON BRANDS, INC., at all times herein mentioned, was and is, upon
7 information and belief, a Delaware Corporation, and at all times herein mentioned, was and is, an
8 employer whose employees are engaged throughout the State of California, including the County of
9 Ventura.

10 8. Defendants Does 1 to 25, inclusive, are sued under fictitious names pursuant to Code of Civil
11 Procedure section 474. Plaintiff is informed and believes, and on that basis alleges, that each of the
12 defendants sued under fictitious names is in some manner responsible for the wrongs and damages alleged
13 below, in so acting was functioning as the agent, servant, partner, and employee of the co-defendants, and
14 in taking the actions mentioned below was acting within the course and scope of his or her authority as such
15 agent, servant, partner, and employee, with the permission and consent of the co-defendants. Defendants
16 BLUETRITON BRANDS, INC. and DOES 1 to 25 are sometimes hereafter referred to, collectively and/or
17 individually, as "Defendants."

18 9. *Relationship of defendants:* Defendants compelled, coerced, aided, and/or abetted the
19 discrimination, retaliation, harassment, and California Labor Code violations alleged in this Complaint,
20 which conduct is prohibited under California Government Code section 12940(i) and California Labor
21 Code. Defendants were responsible for the events and damages alleged herein, including on the following
22 bases: (a) Defendants committed the acts alleged; (b) at all relevant times, one or more of the defendants
23 was the agent or employee, and/or acted under the control or supervision, of one or more of the remaining
24 defendants and, in committing the acts alleged, acted within the course and scope of such agency and
25 employment and/or is or are otherwise liable for Plaintiffs' damages; (c) at all relevant times, there existed
26 a unity of ownership and interest between or among two or more of the defendants such that any
27 individuality and separateness between or among those defendants has ceased, and Defendants are the
28 alter egos of one another. Defendants exercised domination and control over one another to such an extent

1 that any individuality or separateness of defendants does not, and at all times herein mentioned did not,
2 exist. Adherence to the fiction of the separate existence of Defendants would permit abuse of the
3 corporate privilege and would sanction fraud and promote injustice. All actions of Defendants were taken
4 by employees, supervisors, executives, officers, and directors during employment with Defendants, were
5 taken on behalf of Defendants, and were engaged in, authorized, ratified, and approved of by all
6 Defendants.

7 10. Plaintiff further alleges that Defendants including the unknown defendants identified as DOES,
8 directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions
9 of employment of Plaintiff and the other aggrieved employees so as to make each of said Defendants
10 employers and employers liable under the statutory provisions set forth herein.

11 11. Finally, at all relevant times mentioned herein, all defendants acted as agents of all other
12 defendants in committing the acts alleged herein.

13 14 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 12. Prior to filing this action, Plaintiffs exhausted their administrative remedies by timely filing an
16 administrative complaint with the State of California Labor & Workforce Development Agency
17 (“LWDA”) so as to comply with all of the PAGA exhaustion procedures under Labor Code sections 2698
18 and 2699 *et seq.*

19 20 **PAGA ALLEGATIONS**

21 13. At all times herein set forth, PAGA was applicable to Plaintiff’s employment by Defendants.

22 14. At all times herein set forth, PAGA provides that any provision of law under the California
23 Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed
24 and collected by the LWDA for violations of the California Labor Code may, as an alternative, be
25 recovered through a civil action brought by an aggrieved employee on behalf of herself and other current
26 or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

27 15. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved employee,”
28 who is any person that was employed by the alleged violator and against whom one or more of the alleged

1 violations was committed.

2 16. Plaintiff was employed by Defendants and the alleged violations were committed against her
3 during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and other
4 employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they
5 are all current and former employees of Defendants, and one or more of the alleged violations were
6 committed against them.

7 17. Pursuant to California Labor Code section 2699.3 and 2699.5, an aggrieved employee,
8 including Plaintiff, may pursue a civil action arising under PAGA after the following requirement have
9 been met:

- 10 a. The aggrieved employee shall give written notice by online submission (hereinafter referred
11 to as “Employee’s Notice”) to the Labor & Workforce Development Agency (hereinafter
12 “LWDA”) and by U.S. Certified Mail to the employer of the specific provisions of the
13 California Labor Code alleged to have been violated, including the facts and theories to
14 support the alleged violations.
- 15 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the
16 aggrieved employee by certified mail that it does not intend to investigate the alleged
17 violation within sixty (60) calendar days of the postmark date of the Employee’s Notice.
18 Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five
19 (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee
20 may commence a civil action pursuant to California Labor Code section 2699 to recover
21 civil penalties in addition to any other penalties to which the employee may be entitled.

22 18. On October 24, 2023, Plaintiff provided written notice by online submission and U.S.
23 Certified Mail to the LWDA and by U.S. Certified Mail to Defendant D6 LOGISTICS LLC of the specific
24 provisions of the California Labor Code alleged to have been violated, including the facts and theories to
25 support the alleged violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar
26 days of the date of Plaintiff’s Notice.

27 19. Therefore, Plaintiff has satisfied the administrative prerequisites under California Labor Code
28 section 2699.3(a) to recover civil penalties against Defendants for violations of California Labor Code

1 sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800
2 and 2802.

3 4 **GENERAL ALLEGATIONS**

5 20. Defendant BLUETRITON BRANDS, INC. is a corporation engaged in shipping, delivery,
6 packaging, and distribution of drinking water for residential and commercial clients.

7 21. At all relevant times set forth herein, Defendants employed Plaintiffs and other aggrieved
8 hourly-paid or non-exempt employees who worked for any of the Defendants in the State of California
9 including, but not limited to all current and former hourly-paid or non-exempt employees who worked
10 for any of the Defendants within the State of California who earned shift differentials/non-discretionary
11 bonuses/non-discretionary performance pay which was not used to calculate the correct regular rate of
12 pay used to calculate the overtime rate (hereinafter collectively referred to as the “other aggrieved
13 employees”).

14 22. Defendants employed Plaintiff ENRIQUE GARCIA as an hourly-paid, non-exempt employee
15 from approximately year 2006 to approximately January 12, 2024, in the State of California.

16 23. Defendants employed Plaintiff DIEGO MARTINEZ as an hourly-paid, non-exempt employee
17 from approximately year 2006 to approximately January 12, 2024, in the State of California.

18 24. Defendants employed Plaintiff ANDREW ROMERO as an hourly-paid, non-exempt employee
19 from approximately year 2006 to approximately January 12, 2024, in the State of California.

20 25. Defendants hired Plaintiffs and the other aggrieved employees, and failed to compensate them
21 for all hours worked, missed meal periods or rest breaks.

22 26. Defendants had the authority to hire and terminate Plaintiffs and the other aggrieved
23 employees, to set work rules and conditions governing Plaintiffs’ and the other aggrieved employees’
24 employment, and to supervise their daily employment activities.

25 27. Defendants directly hired and paid wages and benefits to Plaintiffs and the other aggrieved
26 employees.

27 28. Defendants continue to employ hourly-paid or non-exempt employees, within the State of
28 California.

1 29. Plaintiffs and the other aggrieved employees worked over eight (8) hours in a day, and/or forty
2 (40) hours in a week during their employment with Defendant.

3 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a
4 uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees.
5 This scheme involved, *inter alia*, failing to pay them for all hours worked and for missed (short, late,
6 interrupted, and altogether missed) meal periods and rest breaks in violation of California law.

7 31. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
8 have known that Plaintiffs and the other aggrieved employees were entitled to receive certain wages for
9 overtime compensation and that they were not receiving wages for overtime compensation.

10 32. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed to provide
11 Plaintiffs and the other aggrieved employees the required rest and meal periods during the relevant time
12 period as required under the Industrial Welfare Commission Wage Orders and thus they are entitled to
13 any and all applicable penalties.

14 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
15 have known that Plaintiffs and the other aggrieved employees were entitled to receive all meal periods or
16 payment of one additional hour of pay at Plaintiffs' and the other aggrieved employee's regular rate of
17 pay when a meal period was missed, and they did not receive all meal periods or payment of one
18 additional hour of pay at Plaintiffs' and the other aggrieved employee's regular rate of pay when a meal
19 period was missed.

20 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
21 have known that Plaintiffs and the other aggrieved employees were entitled to receive all rest periods or
22 payment of one additional hour of pay at Plaintiffs' and the other aggrieved employees' regular rate of
23 pay when a rest period was missed, and they did not receive all rest periods or payment of one additional
24 hour of pay at Plaintiffs' and the other aggrieved employee's regular rate of pay when a rest period was
25 missed.

26 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
27 have known that Plaintiffs and the other aggrieved employees were entitled to receive at least minimum
28 wages for compensation and that they were not receiving at least minimum wages for all hours worked.

1 36. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
2 have known that Plaintiffs and the other aggrieved employees were entitled to receive all wages owed to
3 them upon discharge or resignation, including overtime and minimum wages and meal and rest period
4 premiums, and they did not, in fact, receive all such wages owed to them at the time of their discharge.

5 37. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
6 have known that Plaintiffs and the other aggrieved employees were entitled to receive all wages owed to
7 them during their employment. Plaintiffs and the other aggrieved employees did not receive payment of
8 all wages, including overtime and minimum wages and meal and rest period premiums, within any time
9 permissible under California Labor Code section 204.

10 38. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
11 have known that Plaintiffs and the other aggrieved employees were entitled to receive complete and
12 accurate wage statements in accordance with California law, but, in fact, they did not receive complete
13 and accurate wage statements from Defendants. The deficiencies included, inter alia, the failure to include
14 the total number of hours worked by Plaintiffs and the other aggrieved employees.

15 39. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
16 have known that Defendants had to keep complete and accurate payroll records for Plaintiffs and the
17 other aggrieved employees in accordance with California law, but, in fact, did not keep complete and
18 accurate payroll records.

19 40. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
20 have known that Plaintiffs and the other aggrieved employees were entitled to reimbursement for
21 necessary business-related expenses and costs.

22 41. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should
23 have known that they had a duty to compensate Plaintiffs and the other aggrieved employees pursuant to
24 California law, and that Defendants had the financial ability to pay such compensation, but willfully,
25 knowingly, and intentionally failed to do so, and falsely represented to Plaintiffs and the other aggrieved
26 employees that they were properly denied wages, all in order to increase Defendant's profits.

27 42. At all material times set forth herein, Defendants failed to pay overtime wages to Plaintiffs and
28 the other aggrieved employees. Plaintiffs and the other aggrieved employees were required to work more

1 than eight (8) hours per day and/or forty (40) hours per week without overtime compensation.

2 43. At all material times set forth herein, Defendants failed to provide uninterrupted meal and rest
3 periods to Plaintiffs and the other aggrieved employees.

4 44. At all material times set forth herein, Defendants failed to pay Plaintiffs and the other aggrieved
5 employees at least minimum wages for all hours worked.

6 45. At all material times set forth herein, Defendants failed to pay Plaintiffs and the other aggrieved
7 employees all wages owed to them upon discharge or resignation.

8 46. At all material times set forth herein, Defendants failed to pay Plaintiffs and the other aggrieved
9 employees wages within any time permissible under California law, including, *inter alia*, California
10 Labor Code section 204.

11 47. At all material times set forth herein, Defendants failed to provide complete and accurate wage
12 statements to Plaintiffs and the other aggrieved employees.

13 48. At all material times set forth herein, Defendants failed to keep complete and accurate payroll
14 records for Plaintiffs and the other aggrieved employees.

15 49. At all material times set forth herein, Defendants failed to reimburse Plaintiffs and the other
16 aggrieved employees for necessary business-related expenses and costs.

17 50. At all material times set forth herein, Defendants failed to properly compensate Plaintiffs and
18 the other aggrieved employees pursuant to California law in order to increase Defendant's profits.

19 51. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit
20 the right of any wage claimant to "sue directly...for any wages or penalty due to him [or her] under this
21 article."

22 **FIRST CAUSE OF ACTION**

23 **(Violation of California Labor Code § 2698, et seq.)**

24 **Against All Defendants; and Does 1 to 25, Inclusive**

25 52. Plaintiff restates and incorporates by reference all above stated paragraphs as though fully set
26 forth herein.

27 53. PAGA expressly establishes that any provision of the California Labor Code which provides
28 for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions,

1 commissions, boards, agencies or employees for a violation of the California Labor Code, may be
2 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and
3 other current or former employees.

4 54. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or
5 employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the
6 same discretion, subject to the same limitations and conditions, to assess a civil penalty.

7 55. Plaintiffs and the other hourly-paid or non-exempt employees are “aggrieved employees” as
8 defined by California Labor Code section 2699(c) in that they are all current or former employees of
9 Defendants, and one or more of the alleged violations was committed against them.

10 *Failure to Pay Overtime*

11 56. Defendants’ failure to pay legally required overtime wages to Plaintiffs and the other aggrieved
12 employees is in violation of the Wage Orders and constitutes a violation of California Labor Code
13 sections 510 and 1198.

14 *Failure to Provide Meal Periods*

15 57. Defendants’ failure to provide legally required meal periods to Plaintiffs and the other
16 aggrieved employees is in violation of the Wage Orders and constitutes a violation of California Labor
17 Code sections 226.7 and 512(a).

18 *Failure to Provide Rest Periods*

19 58. Defendants’ failure to provide legally required rest periods to Plaintiffs and the other aggrieved
20 employees is in violation of the Wage Orders and constitutes a violation of California Labor Code
21 sections 226.7.

22 *Failure to Pay Minimum Wages*

23 59. Defendants’ failure to pay legally required minimum wages to Plaintiffs and the other
24 aggrieved employees is in violation of the Wage Orders and constitutes a violation of California Labor
25 Code sections 1194, 1197 and 1197.1.

26 *Failure to Timely Pay Wages Upon Termination*

27 60. Defendants’ failure to timely pay wages to Plaintiffs and the other aggrieved employees upon
28 termination in accordance with Labor Code section 201 and 202 constitutes a violation of California

1 Labor Code sections 201 and 202.

2 *Failure to Timely Pay Wages During Employment*

3 61. Defendants' failure to timely pay wages to Plaintiffs and the other aggrieved employees during
4 employment in accordance with Labor Code section 204 constitutes a violation of California Labor Code
5 section 204.

6 *Failure to Provide Complete and Accurate Wage Statements*

7 62. Defendants' failure to provide complete and accurate wage statements to Plaintiffs and the
8 other aggrieved employees in accordance with Labor Code section 226(a) constitutes a violation of
9 California Labor Code section 226(a).

10 *Failure to Keep Complete and Accurate Payroll Records*

11 63. Defendants' failure to keep complete and accurate payroll records relating to Plaintiffs and the
12 other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes a
13 violation of California Labor Code section 1174(d).

14 *Failure to Reimburse Necessary Business-Related Expenses and Costs*

15 64. Defendants' failure to reimburse Plaintiffs and the other aggrieved employees for necessary
16 business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802
17 constitutes a violation of California Labor Code sections 2800 and 2802.

18 65. Pursuant to California Labor Code section 2699, Plaintiffs, individually, and on behalf of all
19 aggrieved employees, request and are entitled to recover from Defendant, attorneys' fees and costs
20 pursuant to California Labor Code section 218.5, as well as all penalties pursuant to PAGA against
21 Defendants, including but not limited to:

22 a. Penalties under California Labor Code section 2699 in the amount of one hundred dollars
23 (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars
24 (\$200) for each aggrieved employee per pay period for each subsequent violation;

25 b. Penalties under California Code of Regulations Title 8 section 11010 et seq. in the amount
26 of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred
27 dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

28 c. Penalties under California Labor Code section 210 in addition to, and entirely independent

1 and apart from, any other penalty provided in the California Labor Code in the amount of one hundred
2 dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred
3 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

4 d. Any and all additional penalties and sums as provided by the California Labor Code and/or
5 other statutes.

6 66. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved
7 employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce
8 Development Agency for the enforcement of labor laws and education of employers and employees about
9 their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

10 67. Further, Plaintiffs is entitled to seek and recover reasonable attorneys' fees and costs pursuant
11 to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

12
13 **PRAYER**

14 WHEREFORE, Plaintiffs, ENRIQUE GARCIA, DIEGO MARTINEZ, and ANDREW ROMERO,
15 individually, and on behalf of other aggrieved employees pursuant to the Private Attorneys General Act
16 as alleged in their first cause of action, pray for judgment against Defendants, jointly and severally, in
17 excess of twenty-five thousand dollars (\$25,000), as follows:

18 As to the First Cause of Action

19 1. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f) and (g)
20 and 558 plus costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204,
21 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

22 2. For such other and further relief as the Court may deem equitable and appropriate.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **DEMAND FOR JURY TRIAL**

2

3 ADDITIONALLY, Plaintiffs, ENRIQUE GARCIA, DIEGO MARTINEZ, and ANDREW

4 ROMERO, individually, and on behalf of other aggrieved employees pursuant to the California Private

5 Attorneys General Act, requests a trial by jury. The amount demanded exceeds \$25,000.00 (Government

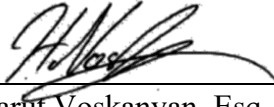
6 Code § 72055).

7

8 Dated: April 1, 2024

VOSKANYAN LAW FIRM, PC.

9

10 By: 

11 Harut Voskanyan, Esq.

12 Attorneys for Plaintiff,
13 ENRIQUE GARCIA, DIEGO MARTINEZ,
14 ANDREW ROMERO

15

16

17

18

19

20

21

22

23

24

25

26

27

28