

Shaun Setareh (SBN 204514)
shaun@setarehlaw.com
Thomas Segal (SBN 222791)
thomas@setarehlaw.com
Farrah Grant (SBN 293898)
farrah@setarehlaw.com
SETAREH LAW GROUP
9665 Wilshire Boulevard, Suite 430
Beverly Hills, California 90212
Telephone (310) 888-7771
Facsimile (310) 888-0109

Attorneys for Plaintiff LELAND BROWDEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

LELAND BROWDEN, on behalf of
himself, all others similarly situated, and
the general public,

Plaintiff,

v.

CJ BERRY WELL SERVICES
MANAGEMENT, LLC, a Delaware
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. BCV-24-101641

REPRESENTATIVE ACTION

COMPLAINT

1. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff LELAND BROWDEN (“Plaintiff”), on behalf of himself, all other similarly
2 situated, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action against defendant CJ BERRY WELL
5 SERVICES MANAGEMENT, LLC , a Delaware Corporation; and DOES 1 through 50, inclusive,
6 (collectively referred to as “Defendants”) for alleged violations of the Labor Code. As set forth
7 below, Plaintiff alleges that Defendants have

- 8 (1) failed to provide Plaintiff and all other similarly situated individuals with meal
9 periods;
- 10 (2) failed to provide them with rest periods;
- 11 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 12 (4) failed to pay them premium wages for missed meal and/or rest periods at the regular
13 rate of pay;
- 14 (5) failed to pay them at least minimum wage for all hours worked;
- 15 (6) failed to pay them overtime wages at the correct rate;
- 16 (7) failed to pay them double time wages at the correct rate;
- 17 (8) failed to pay them overtime and/or double time wages by failing to include all
18 applicable remuneration in calculating the regular rate of pay;
- 19 (9) failed to reimburse them for all necessary business expenses;
- 20 (10) failed to provide them with accurate written wage statements; and
- 21 (11) failed to pay them all of their final wages following separation of employment.

22 Based on these alleged violations, Plaintiff now brings this representative action to recover unpaid
23 wages, restitution, civil and statutory penalties, and related relief on behalf himself and all other
24 aggrieved employees, and the State of California.

25 **JURISDICTION AND VENUE**

26 2. This Court has subject matter jurisdiction to hear this case because the unpaid wages,
27 actual damages, liquidated damages, restitution, and penalties sought by Plaintiff from Defendants
28 exceeds the minimal jurisdictional limits of the Superior Court of the State of California.

3. Venue is proper in KERN pursuant to Code of Civil Procedure §§ 395(a) and 395.5 in that liability arose there, because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business, and/or has an agent therein.

PARTIES

4. Plaintiff is and was, and at all relevant times mentioned herein, an individual residing in the State of California.

5. Plaintiff is informed and believes, and thereupon alleges, that Defendant is, and at all relevant times mentioned herein, a Delaware corporation doing business in the State of California.

6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

7. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some or all of the other defendants, and, in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent, and ratification by such other defendants.

GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

8. Plaintiff worked for Defendants as an hourly, non-exempt employee from approximately August 19, 2022, through June 8, 2023.

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1 **Clocking In/Off-the-Clock**

2 9. Plaintiff and aggrieved employees were required to be dressed and in uniform prior
3 to clocking in. When Plaintiff and aggrieved employees arrived at work, they were required to don
4 their uniform and safety equipment. Plaintiff and aggrieved employees were instructed to use an on-
5 site locker room to put on their uniform and equipment such as a hard hat, gloves, safety goggles,
6 and gas monitor. The safety equipment was required for performing their work. Plaintiff and
7 aggrieved employees were not allowed to clock in for work until they were fully dressed and had
8 their safety equipment with them. The time spent by Plaintiff and aggrieved employees equipping
9 and donning the protective equipment could take as long as five to ten minutes—time which was
10 unpaid by Defendants.

11 10. This time was not properly recorded as time worked and resulted in Plaintiff and
12 aggrieved employees not being paid for all hours worked by Defendants.

13 **Clock In Process**

14 11. Plaintiff and aggrieved employees were trained to clock in for each work shift an
15 iPad located in a trailer which was used as an office. Employees ending their shift and employees
16 beginning their shifts would clock in using the same iPad. As a result, Plaintiff and aggrieved
17 employees were required to wait in line to clock in. The line would be as long as ten to twenty
18 employees. Plaintiff and aggrieved employees would wait five to ten minutes in line to clock in.
19 This time was not properly recorded as time worked and resulted in Plaintiff and aggrieved
20 employees not being paid for all hours worked by Defendants.

21 **Missed and Shortened Rest Breaks**

22 12. Plaintiff and aggrieved employees were not provided with rest breaks of at least ten
23 (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants'
24 policy of not scheduling each rest period as part of each work shift; (2) chronically understaffing
25 each work shift with not enough workers; and (3) imposing so much work on each employee such
26 that it made it unlikely that an employee would be able to take their breaks if they wanted to finish
27 their work on time.

28 13. Plaintiff and aggrieved employees were required to complete assignments or orders

1 as they were issued. Since defendants were understaffed, plaintiff and aggrieved employees would
2 work through their rest periods to complete assignments as directed by supervisors.

3 14. If there were no outstanding assignments, Plaintiff and aggrieved employees may
4 commence a rest break. However, if an assignment became available and outstanding, Plaintiff and
5 aggrieved employees were required to return to work immediately, thus shortening their rest break.

6 15. As a result of Defendants' policy, Plaintiff and aggrieved employees were regularly
7 not provided with uninterrupted rest periods of at least ten (10) minutes for each four (4) hours
8 worked due to complying with Defendants' productivity requirements that required Plaintiff and
9 aggrieved employees to work through their rest periods in order to complete their assignments on
10 time.

11 **Late and Shortened Meal Periods**

12 16. Plaintiff and aggrieved employees were not provided with meal periods of at least
13 thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not
14 scheduling each meal period as part of each work shift; (2) chronically understaffing each work
15 shift with not enough workers; and (3) imposing so much work on each employee such that it made
16 it unlikely that an employee would be able to take their breaks if they wanted to finish their work
17 on time;

18 17. Plaintiff and aggrieved employees were required to be released by a supervisor prior
19 to commencing their meal period. If Plaintiff and aggrieved employees were working on an
20 assignment, they were required to complete pending work before commencing their meal break.
21 Often, Plaintiff and aggrieved employees would be needed on an assignment and were not allowed
22 to take their meal period before their fifth hour of work.

23 18. Further, Plaintiff and aggrieved employees were required to return from the meal
24 period if they were needed to help complete an assignment, such as moving a rig from one well to
25 another. Regardless of whether Plaintiff and aggrieved employees had taken a full thirty (30)
26 minute meal period, they were expected to return to work resulting in a shortened meal period.

27 19. As a result of Defendants' policy, Plaintiff and aggrieved employees were regularly
28 not provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours

1 worked due to complying with Defendants' productivity requirements that required Plaintiff and
2 aggrieved employees to work through their meal periods in order to complete their assignments on
3 time.

4 20. Plaintiff alleges that, at relevant times during the applicable limitations period,
5 Defendants maintained a policy or practice of disciplining Plaintiff and members of aggrieved
6 employees, up to and including termination, if they did not clock back in from their meal periods
7 on time.

8 21. Plaintiff alleges that, at relevant times during the applicable limitations period, due
9 to Defendants' above-mentioned policy or practice, Plaintiff and aggrieved employees did not
10 receive their full thirty (30) minute uninterrupted meal periods that they were entitled to under
11 California law.

12 **Missed Meal Periods**

13 22. Plaintiff and aggrieved employees were not provided with meal periods of at least
14 thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not
15 scheduling each meal period as part of each work shift; (2) chronically understaffing each work
16 shift with not enough workers; and (3) imposing so much work on each employee such that it made
17 it unlikely that an employee would be able to take their breaks if they wanted to finish their work
18 on time

19 23. Plaintiff and aggrieved employees were regularly scheduled to work twelve-hour
20 shifts. Plaintiff and aggrieved employees were only provided with one meal period during this
21 time.

22 24. As a result of Defendants' policy, Plaintiff and aggrieved employees were regularly
23 not provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours
24 worked due to complying with Defendants' productivity requirements that required Plaintiff and
25 aggrieved employees to work through their meal periods in order to complete their assignments on
26 time.

27 **Clocking Out/Off-the-Clock**

28 25. Plaintiff and aggrieved employees would be required to perform off-the-clock work

on multiple occasions after they had clocked out for their shift. For example, Plaintiff and aggrieved employees would be directed by a manager or supervisor to clock out before removing their uniform and safety equipment. After clocking out, Plaintiff and aggrieved employees were instructed to go to the locker room and remove their safety equipment, such as their hard hat, gloves, safety goggles, and gas monitor and store them in the locker room. The safety equipment was required for performing their work.

26. Further, Plaintiff and aggrieved employees would receive text messages or phone calls from their supervisors regarding completed, pending or upcoming work assignments.

27. Defendants knew or should have known that Plaintiff and aggrieved employees were not “on the clock” after they had clocked out and therefore should not have directed Plaintiff and aggrieved employees to perform any additional work once they had clocked out.

28. The time spent by Plaintiff and aggrieved employees removing and storing protective equipment could take as long as five to ten minutes—time which was unpaid by Defendants.

Vacation Pay

29. Plaintiff and aggrieved employees accrued vacation wages during their employment with Defendants.

30. Vacation wages are considered a form of wages under Labor Code § 200. Vested vacation pay and other similar forms of paid time off earned based on labor performed are considered wages that cannot be subject to forfeiture without compensation for forfeited days at the applicable rates required by law.

31. At all relevant times, Defendants maintained policies that provide for the unlawful forfeiture of vested vacation pay in violation of Labor Code § 227.3 and *Suastez v. Plastic Dress-Up Co.*, (1982) 31 Cal. 3d 774.

32. Plaintiff and aggrieved employees are entitled to vacation accrued during their employment with Defendants. Upon termination, Plaintiff and aggrieved employees were not paid all accrued vacation pay.

Regular Rate of Pay

33. The regular rate of pay under California law includes all remuneration for

1 employment paid, on behalf of the employer, to the employee. This requirement includes, but is
2 not limited, to, commissions and non-discretionary bonuses.

3 34. During the applicable limitations period, Defendants violated the rights of Plaintiff
4 and aggrieved employees under the above-referenced Labor Code sections by failing to pay them
5 overtime wages for all overtime hours worked in violation of Labor Code §§ 510, 1194, and 1198
6 as a result of not correctly calculating their regular rate of pay to include all applicable
7 remuneration, including, but not limited to, non-discretionary bonuses and/or shift-differential pay.

8 **Expense Reimbursement**

9 35. Plaintiff and aggrieved employees members were required to utilize their own
10 personal tools to perform their job duties. Defendant regularly contacted Plaintiff and aggrieved
11 employees on their personal cellphones to provide information about their upcoming assignments.

12 36. Plaintiff and aggrieved employees members were not reimbursed for business
13 expenses incurred in maintaining their tools including their cellphones and service plans.

14 37. In addition, Plaintiff and aggrieved employees members were not reimbursed for
15 expenses related to maintaining and cleaning their uniforms. Although Defendants offered to collect
16 and wash uniforms, often the uniforms would go missing. As a result, Plaintiff and aggrieved
17 employees maintained their own uniform to ensure they had required uniforms available to them.

18 38. Defendants failed to reimburse Plaintiff and aggrieved employees for such necessary
19 business expenses incurred by them.

20 **Wage Statements**

21 39. Plaintiff and aggrieved employees were not provided with accurate wage statements
22 as mandated by law pursuant to Labor Code § 226.

23 40. Defendants failed to comply with Labor Code 0167 226(a)(1) as “gross wages
24 earned” were not accurately reflected in that all hours worked, including overtime and “off-the-
25 clock” work were not included.

26 41. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours
27 worked by the employee” were not accurately reflected in that all hours worked, including overtime
28 and “off-the-clock” work were not included.

42. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages earned” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work were not included.

43. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work were not included.

FIRST CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code §§ 2698 *et seq.*)

44. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

45. During the applicable limitations period, Defendants have violated Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512, 1194, 1197, 1198, and 2802.

46. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of himself and other current and former employees, to bring a representative civil action to recover civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

47. Plaintiff, a former employee against whom Defendants committed one or more of the alleged Labor Code violations during the applicable limitations period, is an aggrieved employee within the meaning of Labor Code § 2699(c).

48. Plaintiff has complied with the procedures for bringing suit specified in Labor Code § 2699.3. Notice was provided to the California Labor & Workforce Development Agency (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to investigate.

49. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512, 1194, 1197, 1198 and 2802:

i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 227.3, 1194, 1198

1 and 2802, one hundred dollars (\$100) for each employee per pay period for
2 each initial violation and two hundred dollars (\$200) for each employee per
3 pay period for each subsequent violation (penalties set by Labor Code §
4 2699(f)(2));

5 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding
6 thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);

7 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
8 employee for each initial violation that was neither willful nor intentional,
9 two hundred dollars (\$200) for each employee, plus 25% of the amount
10 unlawfully withheld from each employee, for each initial violation that was
11 either willful or intentional, and two hundred dollars (\$200) for each
12 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
13 from each employee, for each subsequent violation, regardless of whether the
14 subsequent violation was either willful or intentional (penalties set by Labor
15 Code § 210);

16 iv. For violations of Labor Code § 226(a), if this action is deemed to be an initial
17 citation, two hundred and fifty dollars (\$250) for each employee for each
18 violation. Alternatively, if an initial citation or its equivalent occurred before
19 the filing of this action, one thousand dollars (\$1,000) for each employee for
20 each violation (penalties set by Labor Code § 226.3);

21 v. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
22 employee for each initial pay period for which the employee was underpaid,
23 and one hundred dollars (\$100) for each employee for each subsequent pay
24 period for which the employee was underpaid (penalties set by Labor Code §
25 558);

26 vi. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
27 aggrieved employee for each initial violation of Labor Code § 1197 that was
28 intentional and two hundred and fifty dollars (\$250) for each aggrieved

employee per pay period for each subsequent violation of Labor Code § 1197, regardless of whether the initial violation was intentional (penalties set by Labor Code § 1197.1);

50. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general public, prays for relief and judgment against Defendants as follows:

- (1) Pre-judgment interest;
- (2) Statutory penalties;
- (3) Civil penalties;
- (4) Costs of suit;
- (5) Reasonable attorneys' fees; and
- (6) Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: May 14, 2024

SETAREH LAW GROUP

/s/ Thomas Segal
SHAUN SETAREH
THOMAS SEGAL
FARRAH GRANT
Attorneys for Plaintiff
LELAND BROWDEN