

FILED

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SHASTA COUNTY SUPERIOR COURT
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Attorney for Plaintiff
Audrey Faust

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SHASTA

AUDREY FAUST, individually and on behalf and all similarly situated individuals,	) NO. 204258
	) CLASS ACTION
Plaintiff,	)
v.	) FIRST AMENDED COMPLAINT.
	) 1. Minimum Wage Violations
SUNFLOWER MANAGEMENT & OPERATIONS, LLC dba MARVEL HOME SERVICES, and DOES 1 to 100,	) 2. Overtime Violations
	) 3. Meal Period Violations
Defendants.	) 4. Rest Period Violations
	) 5. Wage Statement Penalties
	) 6. Expense Reimbursement Violations
	) 7. Violation of Unfair Competition Law
	) 8. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Audrey Faust is a resident of Riverside County.
2. Defendant Sunflower Management & Operations, LLC dba Marvel Home Services is a limited liability company based in Shasta County.
3. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore use fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
4. The named and Doe defendants are collectively referred to as Defendants.
5. Plaintiffs are informed and believe that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.
6. Defendants operate a service for cleaning services, thus Wage Order 5 applies.

1 7. Defendants employed Plaintiff and the class members as nonexempt workers; Plaintiff
2 worked as a cleaning person.

3 8. Plaintiff worked for Defendants from February 2023 to present.

4 9. Plaintiff and the class members were not exempt since they did not customarily and
5 regularly exercise discretion and independent judgment.

6 10. Throughout Plaintiff's and the class members' employment, they did not receive compliant
7 meal and rest periods since they were interrupted and had to remain on premises, were not paid for
8 all hours worked, were not reimbursed for work expenses.

9 11. Further, Plaintiff and the class members did not receive any wage statements whatsoever.

10 12. On February 7, 2024 Plaintiff sent a PAGA letter to Sunflower Management & Operations,
11 LLC and uploaded the letter to the LWDA website. Since it has been more than 65 days, Plaintiff
12 may now request PAGA penalties.

13
14 CLASS ACTION ALLEGATIONS

15 13. The class is defined as the following: "All non-exempt employees who worked for
16 Defendants in California as from four years prior to filing the case to the date of certification or
17 judgment, whichever is earlier."

18 14. There is a well-defined community of interest, and the proposed class is ascertainable from
19 Defendants' employment records. Further, the following apply to show the viability of a class
20 action pursuant to Code of Civil Procedure section 382:

- 21 a. Numerosity: The members of the class as defined are so numerous that joinder
22 of all class members is impracticable.
- 23 b. Commonality: This action involves common questions of law and fact to the
24 class because the action focuses on Defendants' systematic course of conduct
25 with respect to violating the Labor Code and IWC Wage Order.
- 26 c. Typicality: The claims are typical of the claims of the class. Plaintiff was
27 subjected to the same violations and seeks the same types of damages,
28 restitution, and other relief on the same as those of the members of the class.

- 1 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and
2 protect the interests of the class. Plaintiff understands the obligations as a class
3 representative and is willing and able to fulfill them. Plaintiff's counsel is
4 competent and experienced in litigating large employment class actions and
5 complex litigation matters, including wage and hour cases like this.
- 6 e. Superiority of Class Action: A class action is superior to other available means
7 for efficient adjudication. Class action treatment will allow similarly situated
8 persons to pursue the claims in a manner that is most efficient and economical.

9 15. There are common questions of law and fact including but not limited to:

- 10 a. Whether Defendants did not pay overtime at the correct regular rate in violation
11 of Labor code sections 510 and 1194;
- 12 b. Whether Defendants violated Labor Code sections 510 and 1194 for not paying
13 at least the minimum wage for work off the clock;
- 14 c. Whether Defendants violated Labor Code section 512 and the applicable Wage
15 Order by not providing meal breaks;
- 16 d. Whether Defendants violated the applicable Wage Order for not providing rest
17 breaks;
- 18 e. Whether Defendants violated Labor Code section 226 by not providing wage
19 statements;
- 20 f. Whether Defendants violated Labor Code section 226.7 by not paying premium
21 pay for missed meal and rest breaks;
- 22 g. Whether Defendants engaged in unfair competition; and
- 23 h. The amount of damages, wages, and penalties owed.
- 24

25 FIRST CAUSE OF ACTION

26 Minimum Wage Violations

27 Against All Defendants

28 16. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.

- 1 17. Plaintiff and the class members were not paid for all hours worked.
2 18. Therefore Plaintiff and the class members are owed payment for unpaid wages and interest.
3 19. Also, statutory attorney fees apply.

4
5 SECOND CAUSE OF ACTION

6 Overtime Violations

7 Against All Defendants

- 8 20. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.
9 21. Plaintiff and the class members were required to work over eight hours in a day and/or 40
10 hours in a week without being compensated for all overtime in violation of Labor Code 510.
11 22. Plaintiff and the class members should have received overtime for work under Labor Code
12 section 510, but overtime was not paid.
13 23. The remedy for the overtime violations is payment of the unpaid overtime at the correct
14 regular rate of pay, plus interest and attorney fees, pursuant to Labor Code section 1194.

15
16 THIRD CAUSE OF ACTION

17 Meal Period Violations

18 Against All Defendants

- 19 24. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.
20 25. Pursuant to the applicable Wage Order, every employer shall authorize and permit
21 employees to take meal periods of thirty minutes for every five hours worked.
22 26. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 4, when an employee does
23 not receive a meal period, the employer shall pay the employee one hour of pay at the employee's
24 regular rate of compensation for each workday that a rest period is not provided.
25 27. Plaintiff and the class members were denied meal periods as meal periods were either not
26 provided or were on-duty.
27 28. As a result, Plaintiff and the class members are entitled to premium pay which is one
28 additional hour of compensation for each missed break at the correct regular rate.

1 FOURTH CAUSE OF ACTION

2 Rest Period Violations

3 Against All Defendants

4 29. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.

5 30. Pursuant to the applicable Wage Order every employer shall authorize and permit
6 employees to take rest periods of ten minutes for every four hours worked.

7 31. Pursuant to Labor Code section 226.7(c) and the applicable Wage Order, when the
8 employer does not provide an employee with the required rest period, the employer shall pay the
9 employee one hour of pay at the employee's regular rate of compensation.

10 32. Plaintiff and the class members were denied rest periods as rest periods were not provided
11 or were on-duty.

12 33. As a result of Defendants' rest period violations, Plaintiff and the class members are
13 entitled to premium pay which is one additional hour of compensation for each missed break at the
14 correct regular rate.

15
16 FIFTH CAUSE OF ACTION

17 Wage Statement Penalties

18 Against All Defendants

19 34. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.

20 35. Defendants did not issue any wage statements in violation of Labor Code section 226.

21 36. As a result, Plaintiff and the class members are entitled to wage statement penalties up to
22 \$4,000 each and attorney fees.

23
24 SIXTH CAUSE OF ACTION

25 Expense Reimbursement Violations

26 Against All Defendants

27 37. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.

28 38. Plaintiff and the class members incurred cleaning supply costs while working.

1 39. Pursuant to Labor Code section 2802, Defendants were obligated to reimburse for the
2 expenses, but did not.

3 40. As a result, Plaintiff and the class members are entitled to reimbursement for the expenses
4 and statutory attorney fees.

5
6 SEVENTH CAUSE OF ACTION

7 Violation of Unfair Competition Law

8 Against All Defendants

9 41. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.

10 42. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

11 43. This claim is being brought under the unlawful prong of the UCL.

12 44. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due,
13 including overtime, premium pay at the correct regular rate, and reimbursing work expenses.

14 45. Plaintiff and the class members are entitled to restitution for the above.

15 46. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

16
17 EIGHTH CAUSE OF ACTION

18 PAGA Penalties

19 Against All Defendants

20 47. Plaintiff incorporates by reference paragraphs 1 to 15 of the complaint.

21 48. The PAGA allegations relate to minimum wage, overtime, meal break, rest break, wage
22 statement, and work expense reimbursement violations.

23 49. The PAGA penalties for the minimum wage violations are in Labor Code 1197.1.

24 50. The PAGA penalties for the overtime violations are in Labor Code 558 and 2699.

25 51. The PAGA penalties for the meal break violations are in Labor Code 558.

26 52. The PAGA penalties for the rest break violations are in Labor Code 2699.

27 53. The PAGA penalties for the wage statement violations are in Labor Code 226.3.

28 54. The PAGA penalties for the work expense reimbursements are in Labor Code 2699.

1 55. Plaintiff is entitled to attorney fees under Labor Code section 2699.

2

3 PRAYER

4 For All Causes of Action

5 1. That the court determine that this action may be maintained as a class action

6 2. That Plaintiffs serve as representatives of the class

7 3. That Counsel for Plaintiffs is appointed as class counsel

8

9 First Cause of Action

10 1. Payment of all unpaid wages

11 2. Interest

12 3. Attorney fees

13 4. Other relief the court deems proper

14

15 Second Cause of Action

16 1. Payment of overtime

17 2. Interest

18 3. Attorney fees

19 4. Other relief the court deems proper

20

21 Third Cause of Action

22 1. Premium pay at the correct regular rate of pay plus interest

23 2. Other relief the court deems proper

24

25 Fourth Cause of Action

26 1. Premium pay at the correct regular rate of pay plus interest

27 2. Other relief the court deems proper

28 ///

1 Fifth Cause of Action

- 2 1. Wage statement penalties
3 2. Attorney fees and costs
4 3. Other relief the court deems proper

5
6 Sixth Cause of Action

- 7 1. Reimbursement of work expenses
8 2. Attorney fees
9 3. Other relief the court deems proper

10
11 Seventh Cause of Action

- 12 1. Restitution of unpaid wages and premium pay
13 2. Attorney fees
14 3. Other relief the court deems proper

15
16 Eighth Cause of Action

- 17 1. All applicable PAGA penalties
18 2. Attorney fees and costs
19 3. Other relief the court deems proper

20
21 Date: April 16, 2024

FRONTIER LAW CENTER

22
23 *Adam Rose*

24 _____
Adam Rose
Attorney for Plaintiff
Audrey Faust
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SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

FEB 08 2024

SHASTA COUNTY SUPERIOR COURT
BY: K. PRIDE, DEPUTY CLERK

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Sunflower Management & Operations, LLC dba Marvel Home Services, and Does 1 to 100

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Audrey Faust, individually and on behalf and all similarly situated individuals

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Shasta County Superior Court, 1500 Court St., Redding, CA 96001

CASE NUMBER:
(Número del Caso):

204258

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Adam Rose, Frontier Law Center, 23901 Calabasas Rd., #1084, Calabasas, CA 91302, (818) 914-3433

DATE:
(Fecha)

Clerk, by
(Secretario)

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an Individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):