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County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By S. Ruiz, Deputy Clerk

8 **SUPERIOR COURT OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10
11 INGRID BOLANOS, on behalf of all others
12 similarly aggrieved,

13 Plaintiff,

14 vs.

15 NU-BOTANICS CANDLE CORP., a
16 California corporation, POOYA
17 BAKHTIARI, an individual, and DOES
18 1 through 50, inclusive,

19 Defendants.

CASE NO. **24STCV09340**

REPRESENTATIVE COMPLAINT UNDER
THE PRIVATE ATTORNEYS GENERAL
ACT, LABOR CODE SECTION 2698, *et seq.*

JURY TRIAL DEMANDED

GENERAL ALLEGATIONS

1. Plaintiff INGRID BOLANOS is an individual residing in the State of California.

2. Defendant NU-BOTANICS CANDLE CORP. is a California corporation is duly licensed to conduct business in California.

3. On information and belief, defendant POOYA BAKHTIARI is an individual residing in the State of California and is, and at all relevant times has been, the Chief Executive Officer of defendant NU-BOTANICS CANDLE CORP., owns, operates, and/or manages NU-BOTANICS CANDLE CORP., and had direct control and power over the working conditions and the violations at issue in this Complaint. On information and belief, POOYA BAKHTIARI devised and implemented the policies at issue in this complaint and “caused” these violations as that term is used in Labor Code §§ 558 and 1197.1. Pursuant to Labor code §§ 558 and 1197.1, POOYA BAKHTIARI is individually liable as a person who “caused” the violations to occur.

4. Plaintiff is unaware of the names and capacities of those defendants sued as DOES 1 through 20 but will amend this complaint when that information becomes known. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each of the defendants, including the DOE defendants, was the officer, director, employee, agent, representative, alter ego, or co-conspirator of each of the other defendants, and in engaging in the conduct alleged herein, was acting in the course and scope of, and in furtherance of, such relationship. Unless otherwise specified, Plaintiff will refer to all defendants as “Defendant,” and each allegation pertains to each defendant.

5. This court possesses original subject matter jurisdiction over this matter. Venue is proper in this judicial district because Defendant transacts business in this district, and some of the complained of conduct occurred in this judicial district.

6. Defendant employed Plaintiff in California as a non-exempt employee during the relevant time period. Plaintiff brings her complaint under the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, (“PAGA”), as a representative action on behalf of the State of California regarding violations of the Labor Code as to all similarly aggrieved individuals employed by Defendant as non-exempt employee, either directly or jointly with any other entity,

1 in the State of California, from the date one year prior to submission of Plaintiff's PAGA notice
2 letter. This action is brought solely under PAGA and seeks no relief beyond that available under
3 PAGA.

4 7. During the period beginning one-year period preceding the filing of the required
5 PAGA notice with the Labor Workforce & Development Agency, and continuing through the
6 present, as alleged herein, Defendant violated Labor Code sections 201-203, 204, 210, 221-
7 223, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, and all applicable Wage Orders, as
8 to Plaintiff and all other similarly aggrieved employees employed by Defendant, either directly or
9 jointly, in California. These violations subject Defendant to civil penalties as set forth in the
10 foregoing statutes as well as other provisions of the Labor Code, including without limitation
11 Labor Code sections 203, 210, 225.5, 226.3, 256, 1174.5, 1194.2, 1197.1, and 2699, and
12 section 20 of all applicable IWC Wage Orders.

13 FIRST CAUSE OF ACTION

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

15 8. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

16 9. California law mandates that employees in California be paid for all hours worked,
17 up to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage.
18 Defendant violated California minimum wage laws by requiring, suffering or permitting Plaintiff
19 and other aggrieved employees to work without compensation by requiring them to continue
20 working "off the clock" while purportedly clocked out for unpaid meal periods. Accordingly,
21 Plaintiff and similarly aggrieved employees were not paid for all hours worked causing minimum
22 wage and overtime violations pursuant to Labor Code sections 1194-1199, and all applicable
23 Wage Orders, including Wage Order 7-2001. These violations subject Defendant to civil penalties
24 under the foregoing Labor Code sections and other applicable Labor Code sections, including
25 without limitation Labor Code sections 1197.1 and 2699, and Section 20 of the applicable Wage
26 Orders. Each violation of each Labor Code section and Wage Order provision results in a separate
27 civil penalty, for each aggrieved employee, for each pay period during which the referenced
28 statutes and Wage Order provisions were violated.

1 10. Plaintiff and other aggrieved employees regularly worked periods of more than
2 five hours in a workday without being provided mandatory thirty-minute, duty-free meal periods
3 before the end of the fifth hour of work, and further worked periods of more than 10 hours per
4 shift without being provided a second meal period. Upon information and belief, Defendants
5 failed to maintain a company meal period policy compliant with California law. Plaintiff and
6 similarly aggrieved employees were consistently unable to take timely, thirty-minute
7 uninterrupted meal periods because Defendant required them to continue working while
8 purportedly clocked out for a meal period. Defendant also failed to pay Plaintiff and other
9 aggrieved employees an additional hour of wages at their regular rates of compensation for each
10 workday a required meal period was not provided, or was late, short or interrupted. This conduct
11 results in violations of Labor Code sections 512, 226.7, and IWC Wage Order 7-2001 (and all
12 applicable Wage Orders), § 12(A). These violations subject Defendants to civil penalties under
13 Labor Code section 2699, and Wage Order 7-2001 (and all applicable Wage Orders), section 20.
14 Each violation of each Labor Code section and Wage Order provision results in a separate civil
15 penalty, for each aggrieved employee, for each pay period during which the referenced statutes
16 and Wage Order provisions were violated.

17 11. California law requires employers to provide employees a paid, duty-free ten (10)
18 minute rest period for each four (4) hours worked, or major fraction thereof. IWC Wage Order 7-
19 2001, § 12(A). Employers must pay employees an additional hour of wages at the employee's regular
20 rate of pay for each missed or improper (e.g., less than 10 minutes, interrupted rest period, rest
21 period(s) at improper time(s) during shift(s)) rest period. Lab. Code §226.7; IWC Wage Order 7-2001,
22 § 12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable
23 provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's
24 regular rate of compensation for each work day that the rest period is not provided").

25 12. Employer did not maintain a company rest period policy and/or practice compliant
26 with California law, and Employer frequently did not provide Complainant and other aggrieved
27 employees with appropriate rest periods, particularly as to third rest periods on shifts exceeding 10
28 hours. Per Employer's policy and/or practice, Complainant and other aggrieved employees were not

adequately informed and instructed about, and thereby were not afforded an adequate opportunity to take, proper rest breaks per California law. Further, Employer failed to pay Complainant and other aggrieved employees with an additional hour of pay at Complainant's and other aggrieved employees' regular rates of pay for each missed or improper rest period. Because Employer failed to fully and accurately calculate and record time, it also failed to provide Complainant and other aggrieved employees with all rest breaks required under California law. Employer failed to pay them premiums for such missed rest breaks in violation of California law.

13. California law provides that, at the time of each payment of wages, the employer must provide each employee with an itemized statement showing, inter alia, gross wages earned, total hours worked, all deductions taken, net wages earned, the inclusive dates for which the employee is being paid, the employee's name and last four digits of their social security number, the name and address of the legal entity that it is the employer, and all applicable hourly rates in effect during the pay period and all hours worked at each rate. Defendants knowingly and intentionally failed to provide Plaintiff and other similarly situated and aggrieved employees with proper, itemized wage statements as the wage statements provided by Defendants do not accurately reflect, inter alia, gross wages earned, total hours worked, and net wages earned. Within the meaning of Labor Code section 226, Defendants knowingly and intentionally failed to provide Plaintiff and the class members with proper, itemized wage statements Accordingly, Defendant violated Labor Code section 226 as to Plaintiff and all similarly aggrieved employees. These violations subject Defendant to civil penalties under the Labor Code, including without limitation Labor Code sections 226.3 and 2699. Each violation of each Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.

14. California law requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by all non-exempt employees. The applicable IWC Wage Order similarly requires employers to keep time records showing, inter alia, when the employees begins and end each work period and reflecting the times during which all owed meal periods are provided each day. At all relevant times, Defendants failed, and continue to fail, to keep the required time records by, including but not limited to, by failing to

1 accurately record hours worked due its policy of requiring employees to work while purportedly
2 clocked out for meal periods. Defendants' failure to keep "accurate and complete" payroll
3 records for Plaintiff and other similarly aggrieved employees violates Labor Code sections 1174,
4 1198-99, and Wage Order 9-2001 (and all applicable Wage Orders), section 7. These violations
5 subject Defendant to civil penalties under the Labor Code, including without limitation sections
6 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each
7 aggrieved employee, results in a separate civil penalty.

8 15. Labor Code sections 1198 and 1199 make it unlawful to employ any individual
9 under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to
10 comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174,
11 1197, and 1198, or other order or ruling of the IWC. Defendant's violations with respect to
12 minimum wages and/or overtime wages, as alleged herein, result in separate violations of Labor
13 Code sections 1198 and 1199, and subject Defendant to civil penalties under the Labor Code,
14 including without limitation Labor Code sections 1197.1 and 2699. Each violation of each Labor
15 Code section and Wage Order provision, for each aggrieved employee, results in a separate civil
16 penalty.

17 16. California Labor Code section 204 requires an employer to pay employees all
18 wages due and payable at least twice each calendar month. For reasons discussed herein,
19 Defendant failed to comply with Labor Code section 204 by failing to timely pay twice during
20 each calendar month all wages due and payable to Plaintiff and other similarly aggrieved
21 employees. Defendants' violations of Labor Code section 204 subject Defendants to civil
22 penalties, including but not limited to the penalties set forth in California Labor Code sections
23 210 and 2699. Each violation results in a separate civil penalty, for each aggrieved employee for
24 each pay period during which the statutory provisions were violated.

25 17. Labor Code section 201 requires employers to pay all wages earned and unpaid at
26 the time of discharge, immediately upon discharge. Labor Code section 202 states similar
27 provisions with respect to employees who resign. Upon information and belief, Defendants have a
28 policy and practice of failing to timely pay wages upon discharge, and for Plaintiff and all

1 aggrieved employees no longer employed by Defendants, Defendants still have not paid such
2 aggrieved employees all wages earned and unpaid at the time of discharge, in that Defendant has
3 not paid for all minimum wages and premium wages for the reasons alleged above. These
4 violations subject Defendants to civil penalties under the Labor Code, including without
5 limitation Labor Code sections 203, 256 and 2699. Each violation results in a separate civil
6 penalty, for each aggrieved employee for each pay period during which the statutory provisions
7 were violated.

8 18. Plaintiff complied with the procedures for bringing suit specified in Labor Code
9 Sections 2699.3 and 2699.5. By letter dated and postmarked February 2, 2024, Plaintiff
10 gave written notice to the California Labor & Workforce Development Agency (“LWDA”) via
11 electronic submission at PAGAfilings@dir.ca.gov, and via certified mail to Defendants, of
12 the specific provisions of the Labor Code and Wage Orders allegedly violated, including the
13 facts and theories to support the alleged violations.

14 19. Under Labor Code Section 2699.3, the LWDA must give written notice by
15 certified mail to the parties it intends to investigate the alleged violations within 65 days of the
16 date of the complainant's written notice. As of the filing of this Complaint, the LWDA has not
17 provided the parties any notice of its intention to investigate Plaintiff’s claims on behalf of
18 herself and other aggrieved employees. As of the filing of this complaint, Defendant has not
19 responded to Plaintiff’s PAGA notice in an attempt to cure. Accordingly, Plaintiff has
20 exhausted all administrative remedies required by law.

21 20. Under Labor Code Section 2699(g), Plaintiff is entitled to an award of
22 reasonable attorney's fees and costs in connection with her claims for civil penalties.

23 PRAYER

24 WHEREFORE, Plaintiff prays for judgment against each Defendant, jointly and severally,
25 as follows:

- 26 1. For civil penalties according to proof;
27 2. For reasonable attorney’s fees and costs of suit; and
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1 3. For such other and further relief as the Court deems just and proper.

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3 Dated: April 12, 2024

LAW OFFICES OF J. KIRK DONNELLY, APC

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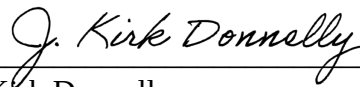
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J. Kirk Donnelly
Attorneys for Plaintiff Ingrid Bolanos

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: April 12, 2024

LAW OFFICES OF J. KIRK DONNELLY, APC



J. Kirk Donnelly
Attorneys for Plaintiff Ingrid