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8 Attorneys for Plaintiff Abby Osier,
9 on behalf of herself and all “aggrieved employees”
10 pursuant to Labor Code § 2698 *et seq.*

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County of Imperial
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Assigned for all purposes,
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L. Brooks Anderholt

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF IMPERIAL**

11 ABBY OSIER, on behalf of herself and all
12 “aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

13 Plaintiff,

14 v.

15 HERITAGE BAG COMPANY, a Texas
16 corporation, NOVOLEX HERITAGE BAG,
17 LLC, a Texas limited liability company, and
DOES 1 through 10, inclusive,

18 Defendants.

CASE NO: ECU003651

**REPRESENTATIVE ACTION COMPLAINT
FOR PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 227.3,
246, 510, 512, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR VIOLATIONS
OF LABOR CODE §§ 226.3 AND 558**

1 Plaintiff ABBY OSIER (“Plaintiff”), on behalf of herself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of HERITAGE
3 BAG COMPANY, a Texas corporation, NOVOLEX HERITAGE BAG, LLC, a Texas limited
4 liability company, and any subsidiaries or affiliated companies (hereinafter referred to as
5 “Defendants”) as follows:

6 **I.**

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
9 Plaintiff and other non-exempt California employees who currently work or formerly worked for
10 Defendants (“Aggrieved Employees”).

11 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
12 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
13 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
14 consistent policies of:

15 a. Failing to properly blend bonuses (identified as “BonAnn” on Plaintiff’s
16 paystubs as well as other forms of incentive pay) and other non-base hourly wages earned by
17 Plaintiff and other Aggrieved Employees into their regular rate of pay for purposes of paying
18 them meal and rest period premiums, overtime wages, vacation wages, and sick pay wages at
19 the correct rates, in violation of Labor Code §§ 226.7, 227.3, 246, 510, 512, 558, and 1194.
20 Defendants paid Plaintiff and other Aggrieved Employees bonuses (including “BonAnn” and
21 other incentive pay) and other non-base hourly wages; however, Defendants failed to properly
22 blend these wages, and instead paid Plaintiff and other Aggrieved Employees meal and rest
23 period premiums, overtime wages, vacation wages, and sick pay wages based only on the base
24 hourly rate of pay, thus depriving Plaintiff and other Aggrieved Employees of all meal and
25 rest period premiums, overtime wages, vacation wages, and sick pay wages earned. This
26 violates Labor Code §§ 226.7, 227.3, 246, 510, 512, 558, and 1194;

27 b. Failing to pay correct premium wages to Plaintiff and other Aggrieved
28 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512,

1 and 558, and IWC Wage Order 4-2001. Plaintiff and other Aggrieved Employees were
2 routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period
3 for every shift worked that exceeded five hours, or a second timely, uninterrupted, 30-minute
4 meal period for every shift worked that exceeded ten hours, but were not paid premium wages
5 of one hour's pay at the proper rate of pay for each missed first or second meal period. Plaintiff
6 and Aggrieved Employees were simply denied the vast majority of their entitled meal periods.
7 This violates Labor Code §§ 226.7, 512, 558, and IWC Wage Order 4-2001;

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9 c. Failing to pay correct premium wages to Plaintiff and other Aggrieved
10 Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage
11 Order No. 4-2001. Plaintiff and other Aggrieved Employees were routinely unable to take a
12 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not
13 paid premium wages of one hour's pay for each missed rest period. Due to the busy nature of
14 their work, Plaintiff and Aggrieved Employees were simply denied and not authorized to take
15 their legally entitled rest periods and were never paid premium wages for missed rest periods.
16 This violates Labor Code § 226.7 and IWC Wage Order No. 4-2001;

17 d. Failing to provide Plaintiff and other Aggrieved Employees with wage
18 statements that fully and accurately itemized the requirements set forth in Labor Code §§
19 226(a) and 226.3. Plaintiff and other Aggrieved Employees were not paid all wages due, as
20 stated above. As such, the wage statements provided by Defendants failed to accurately state
21 all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked,
22 in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor
23 Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period
24 and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and
25 226.3. Furthermore, and independent of the above allegations, the wage statements provided
26 to Plaintiff and other Aggrieved Employees fail to set forth all applicable hourly rates in effect
27 during the pay period and the corresponding number of hours worked, in violation of Labor
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1 Code §§ 226(a)(9) and 226.3—Plaintiff earns various forms of incentive payments, but they
2 are not set forth on the wage statements such that it is impossible to determine if she has been
3 paid all wages due and owing. The wage statements also fail to set forth the name of the legal
4 entity that is the employer, in violation of Labor Code §§ 226(a)(8) and 226.3—the wage
5 statements set forth “Heritage Bag Company” as the employing legal entity, however,
6 “Heritage Bag Company” is no longer active on the California Secretary of State and the entity
7 is not allowed to do business in California. Plaintiff alleges that Novolex Heritage Bag, LLC
8 is the proper employing entity; and
9

10 e. Failing to pay Plaintiff and Aggrieved Employees all wages due at the
11 separation of their employment based on the time frames required by Labor Code §§ 201 and
12 202. As stated above, Plaintiff and other Aggrieved Employees were not paid all wages due
13 during the course of their employment and, as a result of this failure, they were not timely
14 paid all wages due at the separation of their employment. This violates Labor Code §§ 201-
15 202 and is alleged on behalf of Plaintiff and certain Aggrieved Employees no longer employed
16 by Defendants.

17 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
18 2698 *et seq.*, seeks civil penalties for Defendants’ violations of the California Labor Code.

19 4. Venue is proper in this Court because upon information and belief, Defendants are
20 qualified to do business in the State of California, but failed to designate a principal place of business
21 in the State of California on their Statement of Information filed with the California Secretary of
22 State. Consequently, Defendants are subject to suit in any county in the State of California that
23 Plaintiff chooses. As such, venue is proper in Imperial County.

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III.
PARTIES

A. Plaintiff

5. Plaintiff ABBY OSIER was employed by Defendants from August 2023 through May 2024 as a non-exempt employee in California.

B. Defendant

6. Defendant HERITAGE BAG COMPANY is a Texas corporation that employed Plaintiff and Aggrieved Employees in California.

7. Defendant NOVOLEX HERITAGE BAG, LLC, is a Texas limited liability company that employed Plaintiff and Aggrieved Employees in California.

8. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

9. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally attributable to the other Defendants.

10. The Defendants named herein as DOE 1 through DOE 10 are and are persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

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IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 227.3, 246, 510, 512, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3 AND 558**

11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint as though fully set forth herein.

12. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

13. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 227.3, 246, 510, 512, and 1194; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

14. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

15. On May 28, 2024, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of May 28, 2024. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

V.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code §§ 2699(g)(1) and other applicable law; and

4. Such other and further relief as this Court may deem just and proper.

Dated: August 1, 2024

Respectfully submitted,

GAINES LAW CORPORATION

By:



EVAN S. GAINES
Attorneys for Plaintiff