

STANSBURY BROWN LAW, PC
DANIEL J. BROWN (SBN 307604)
dbrown@stansburybrownlaw.com
ETHAN C. SURLS (SBN 327605)
esurls@stansburybrownlaw.com
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Tel: 323-204-3124

Attorneys for Plaintiff

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/05/2024 3:34 PM
David W. Slayton,
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

KELSEY DE MEDEIROS, a an individual
and on behalf of all others similarly situated,

Plaintiff ,

vs.

FORWARD MANAGEMENT LONG
BEACH, INC., DBA KELLER WILLIAMS
PACIFIC ESTATES, a California corporation;
and DOES 1 through 100,

Defendants.

Case No.: **24LBCV01636**

**REPRESENTATIVE ACTION
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *e seq.*).**

UNLIMITED CIVIL CASE

1 Plaintiff Kelsey De Medeiros (“Plaintiff ”), on behalf of herself and all others similarly
2 situated, hereby brings this Representative Action Complaint against FORWARD
3 MANAGEMENT LONG BEACH, INC., DBA KELLER WILLIAMS PACIFIC ESTATES, a
4 California corporation; and, DOES 1 to 100, inclusive (collectively “Defendants”), and on
5 information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff , on behalf of herself and all others similarly situated, hereby brings this
8 Representative Action Complaint for recovery of unpaid wages and penalties under Labor Code
9 §§ 201-203, 204, 226 *et seq.*, 226.7, 226.8, 245.5, 510, 512, 516, 551, 552, 558, 1182.12, 1194,
10 1194.2, 1197, 1198, 2802, 2810.5, 2698 *et seq*; and the Industrial Welfare Commission Wage
11 Orders, in addition to seeking declaratory relief and restitution. This Complaint is brought
12 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
13 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
14 this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
17 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
18 County of Los Angeles. One or more of the Defendants, transact business, have agent(s) within
19 the County of Los Angeles, and/or otherwise are found within the County of Los Angeles, and
20 Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is, a California resident. During the one year immediately preceding
24 the filing of the Complaint in this action and within the statute of limitations periods applicable
25 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
26 employee who was willfully and improperly classified by Defendants as a salaried-exempt
27 employee. Plaintiff was, and is, victims of Defendants’ policies and/or practices complained of
28 herein, lost money and/or property, and have been deprived of the rights guaranteed by Labor

Code §§ 201-203, 204, 226 *et seq.*, 226.7, 226.8, 245.5, 510, 512, 516, 551, 552, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2810.5, 2698 *et seq.*; and the IWC Wage Orders.

4. Plaintiff is informed and believes, and based thereon alleges, that during the one years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business by employing non-exempt employees in the United States, and employed Plaintiff and other, similarly-situated non-exempt employees within Los Angeles County and the state of California and, therefore, were (and are) doing business in Los Angeles County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believe, and based thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the other aggrieved employees to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed, and believes, and thereon allege, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all other aggrieved employees.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all other
2 aggrieved employees.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Plaintiff commenced employment with Defendants as a non-exempt employee
5 (intentionally misclassified as salary-exempt), in the position of “Assistant Market Center
6 Administrator” from around September 2020, until her wrongful termination around September
7 10, 2023. Plaintiff typically worked from Monday through Friday from 4:30 pm until around
8 11:30 p.m., and frequently later. Despite this reality, DEFENDANTS failed to record the hours
9 worked of Plaintiff and other aggrieved employees whatsoever. Plaintiff’s job duties revolved
10 around tasks such as collecting debt owed from agents/vendors, ensuring that agents were paid
11 their commissions, and general accounting functions. Due to DEFENDANTS’ policy/practice of
12 intentionally understaffing its workforce and intentionally misclassifying its employees as salary
13 exempt, Plaintiff and other aggrieved employees were typically required to be on-duty during the
14 entire duration of their shifts without any time for meal periods, rest periods, or any other breaks.
15 The “aggrieved employees” whom Plaintiff seeks to represent are the other current and former
16 non-exempt employees of DEFENDANTS who were subject to the Labor Code violations as
17 alleged herein as well as all salaried and/or exempt employees who should have been classified
18 as non-exempt but were willfully and unlawfully misclassified as salary-exempt.

19 10. Specifically, DEFENDANTS willfully and intentionally misclassified its
20 employees, including, but not limited to, those employees in positions similar to Plaintiff. Indeed,
21 DEFENDANTS engaged in an intentional policy/practice of both i) misclassifying Plaintiff and
22 other aggrieved employees who did not fall within any recognized salary exemption as salaried
23 exempt; and ii) intentionally compensating Plaintiff and other aggrieved employees less than the
24 statutory minimum salary. Upon information and belief, this intentional and willful
25 misclassification resulted in the systemic underpayment of wages to those individuals employed
26 by DEFENDANTS in California.

27 11. Plaintiff and other aggrieved employees routinely worked in excess of 8 hours per
28 workday and/or 40 hours per workweek, but did not receive overtime compensation equal to one

1 and one-half times their regular rate of pay for working overtime hours. Plaintiff conservatively
2 estimates that she worked at least 42 hours per week, thus entitling her to overtime compensation,
3 but due to DEFENDANTS' practice of intentionally misclassifying her as salary-exempt,
4 DEFENDANTS failed to issue Plaintiff and other aggrieved employees for the requisite overtime
5 compensation on those occasions that they worked in excess of the hourly/weekly overtime
6 thresholds as set forth in the California Labor Code. Furthermore, DEFENDANTS paid Plaintiff
7 and other aggrieved employees commission earnings, non-discretionary bonuses, and other forms
8 of non-discretionary pay that are not excludable from the regular rate of pay (hereinafter the
9 aforementioned forms of pay are referred to as "Incentive Pay"). Despite DEFENDANTS'
10 payment of Incentive Pay to Plaintiff and other aggrieved employees, DEFENDANTS failed to
11 properly calculate the regular rate of pay, thereby causing Plaintiff and other aggrieved employees
12 to be underpaid all required overtime wages. Due to DEFENDANTS' stated practice/policy of
13 intentionally misclassifying non-exempt employees as exempt and failing to record their hours
14 worked, DEFENDANTS failed to pay all overtime wages due to Plaintiff and other aggrieved
15 employees.

16 12. During Plaintiff and other aggrieved employees' employment with
17 DEFENDANTS, Plaintiff and other aggrieved employees were not provided all required meal
18 periods due to DEFENDANTS' meal period policies/practices which fail to provide
19 uninterrupted, duty-free 30-minute meal periods prior to the sixth hour of work commencing.
20 Indeed, due to the mistaken belief that they weren't entitled to meal periods due to
21 DEFENDANTS intentionally misclassifying them as salary exempt, Plaintiff and the aggrieved
22 employees would rarely, if ever, exercise their right to a meal period. Instead, Plaintiff and other
23 aggrieved employees would be generally working for the entirety of their shifts without any time
24 or opportunity to exercise a compliant meal period. As a result of this policy/practice, Plaintiff
25 and other aggrieved employees were not permitted to take off-duty meal periods because
26 DEFENDANTS intentionally did not provide them the opportunity to do so. In addition, to
27 DEFENDANTS' failure to provide Plaintiff and other aggrieved employees with all legally
28 required first meal periods, DEFENDANTS also failed to provide second meal periods to Plaintiff

1 and other aggrieved employees when they worked shifts in excess of 10.0 hours. On those
2 occasions when Plaintiff and other aggrieved employees were not provided with all legally
3 compliant meal periods to which they were entitled, DEFENDANTS failed to compensate
4 Plaintiff and other aggrieved employees with the required meal period premium for each workday
5 in which they experienced a meal period violation as mandated by Labor Code § 226.7. Further,
6 during at least a portion of the time period in question, DEFENDANTS maintained no payroll
7 code or other mechanism for the payment of meal period premium payments under Labor Code
8 § 226.7 in the event that a legally compliant meal period was not provided to Plaintiff and other
9 aggrieved employees.

10 13. Plaintiff and other aggrieved employees were also not authorized and permitted to
11 take all required rest periods due to DEFENDANTS' rest period policies/practices, which fail to
12 authorize and permit all rest periods for every four hours worked, or major fraction thereof. As
13 stated above, Plaintiff and other aggrieved employees were constantly required to attend to their
14 work duties, without interruption of breaks, and therefore, DEFENDANTS failed to authorize
15 and permit Plaintiff and other aggrieved employees off-duty rest periods that were completely
16 free of employer control, in violation of California law. For example, Plaintiff and the aggrieved
17 employees were not at any point during their employment with DEFENDANTS informed of their
18 right to take rest periods and weren't able to exercise the use of them. Plaintiff and other
19 aggrieved employees were at no point ever advised of nor afforded the use of a lawful rest period
20 and instead would be on-the-clock and working for the entirety of their shifts. On those occasions
21 when Plaintiff and other aggrieved employees were not authorized and permitted to take all
22 legally compliant rest periods to which they were entitled, DEFENDANTS failed to compensate
23 Plaintiff and other aggrieved employees with the required rest period premium for each workday
24 in which they experienced a rest period violation as mandated by Labor Code § 226.7.
25 Furthermore, upon information and belief, during at least a portion of the time period in question,
26 DEFENDANTS maintained no payroll code or other mechanism for the payment of rest period
27 premium payments under Labor Code § 226.7 in the event that a legally compliant rest period
28 was not provided to Plaintiff or other aggrieved employees.

1 14. DEFENDANTS failed to adequately reimburse Plaintiff and other aggrieved
2 employees for all reasonable and necessary work expenditures, including failing to reimburse for
3 the use of their personal cellular phones despite requiring Plaintiff and other aggrieved employees
4 to conduct all work-related business on their personal phones. At no point were Plaintiff and the
5 aggrieved employees ever reimbursed for the use of their personal cellular phones in furtherance
6 of Defendants business activities. Furthermore, Plaintiff and other aggrieved employees were
7 required to purchase and utilize their own computers in the furtherance of DEFENDANTS'
8 business interests without any reimbursement.

9 15. Additionally, DEFENDANTS failed to meet its obligations to provide paid sick
10 leave to Plaintiff and other aggrieved employees under Labor Code § 245.5(b) which requires that
11 employers authorize and permit its employees who worked 30 or more days within a year to
12 accrue paid sick leave, and to allow them to exercise paid sick leave on or after their 90th day of
13 employment. Despite meeting all of the statutory requirements for being able to accrue and utilize
14 paid sick leave, Plaintiff and other aggrieved employees were not provided paid sick leave on all
15 of those occasions where they needed to take a "sick day" in violation of Labor Code § 245.5(b).

16 16. As a result of DEFENDANTS' failure to pay all minimum and overtime wages
17 and meal/rest period premium wages, DEFENDANTS maintained inaccurate payroll records, and
18 issued inaccurate and facially deficient wage statements. Furthermore, for at least a portion of
19 Plaintiff and other aggrieved employees' employment, DEFENDANTS issued facially deficient
20 wage statements that did not include the overtime rate of pay in violation of Labor Code § 226(a),
21 which requires that all applicable hourly rates in effect during a pay period be included on wage
22 statements.

23 17. DEFENDANTS further failed to properly pay its hourly-paid or non-exempt
24 employees (and intentionally misclassified salary exempt employees) for all hours worked, failed
25 to properly provide or compensate minimum and overtime wages, failed to provide all lawful
26 meal and rest periods (or provide premium pay in lieu thereof), failed to issue compliant wage
27 statements, and failed to timely pay all final wages due to its employees at the time of separation
28 resulting in the systemic untimely payment of wages.

1 fully set forth herein.

2 23. Defendants have committed several Labor Code violations against Plaintiff and
3 other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor
4 Code § 2698 et seq., acting on behalf of herself and other aggrieved employees, brings this
5 representative action against Defendants to recover the civil penalties due to Plaintiff, other
6 aggrieved employees, and the State of California according to proof pursuant to Labor Code §
7 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
8 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
9 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
10 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
11 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
12 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
13 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each
14 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5)
15 \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay
16 period for those violations of the Labor Code for which no civil penalty is specifically provided,
17 based on the following Labor Code violations:

- 18 a. Failing to pay minimum wages for all hours worked to Plaintiff and other
19 aggrieved employees in violation of Labor Code §§ 558, 1182.12, 1194, 1194.2,
20 1197, and 1198;
- 21 b. Failing to pay Plaintiff and other aggrieved employees all earned overtime
22 compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 23 c. Failing to provide all legally required meal periods, and failure to pay meal
24 period premium wages, to Plaintiff and other aggrieved employees at the
25 regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and
26 1198;
- 27 d. Failing to authorize and permit all legally required rest periods, and failure to
28 pay rest period premium wages, to Plaintiff and other aggrieved employees at

1 the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558,
2 and 1198;

3 e. Failing to furnish Plaintiff and other aggrieved employees with complete,
4 accurate, itemized wage statements in violation of Labor Code § 226;

5 f. Failing to timely pay all final wages and compensation earned by Plaintiff and
6 other aggrieved employees at the time of separation in violation of Labor Code
7 §§ 201, 202, and 203;

8 g. Failing to pay Plaintiff and other aggrieved employees employees all earned
9 wages at least twice during each calendar month in violation of Labor Code §
10 204;

11 h. Failing to compensate Plaintiff and other aggrieved employees at least once
12 every week on a business day designated in advance and including all wages
13 earned up to and including the fourth day before such payday in violation of
14 Labor Code § 205;

15 i. Failing to reimburse Plaintiff and other aggrieved employees for all business
16 expenses incurred in violation of Labor Code §§ 2802 and 2804;

17 j. Failing to permit and authorize Plaintiff and other aggrieved employees to
18 exercise the use of their accrued paid sick leave days in violation of Labor
19 Code § 245.5;

20 k. Willfully misclassifying its salaried and/or exempt aggrieved employees, such
21 as Plaintiff, in violation of Labor Code § 226.8;

22 l. Failing to provide legally mandated written disclosures and/or written notices
23 regarding the terms of employment to Plaintiff and other aggrieved employees
24 in violation of Labor Code § 2810.5; and

25 m. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
26 employees in violation of Labor Code § 1174 and 1198.

27 24. On May 9, 2024, Plaintiff notified Defendants via certified mail, and notified the
28 California Labor and Workforce Development Agency (“LWDA”) via its website, of
Defendants’ violations of the California Labor Code and Plaintiff ’s intent to bring a claim for

civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 23 (a)-(m). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

25. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which she is entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. Upon the First Cause of Action, (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for the violations of the Labor Code Sections cited in Labor Code § 2699.5;

2. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

3. On all causes of action, for attorneys' fees and costs as provided by Code of Civil Procedure § 1021.5 and all other applicable statutes; and

4. For such other and further relief the Court may deem just and proper.

1
2 Dated: August 5, 2024
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Respectfully submitted,
STANBURY BROWN LAW, PC

4 By:



5 Daniel J. Brown
6 Ethan C. Surls
7 Attorney for Plaintiff
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