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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9
10 **FOR THE COUNTY OF LOS ANGELES**

11 GINA ELBA MORALES AGUILAR,
12 individually, and on behalf of other aggrieved
employees pursuant to the California Private
13 Attorneys General Act;

14 Plaintiff,

15 v.

16 FANTASY COOKIE CORPORATION, a
17 Delaware Corporation; and DOES 1 through
18 50, inclusive,

19 Defendants.
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Case No: **24STCV28338**

PAGA COMPLAINT

1. Violation of California Labor Code §
2698, *et seq.* (Private Attorneys General Act
of 2004)

COMES NOW, Plaintiff GINA ELBA MORALES AGULAR (“PLAINTIFF”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

JURISDICTION AND VENUE

This PAGA action is brought against Defendant FANTASY COOKIE CORPORATION (“DEFENDANT” or “FANTASY COOKIE”) to recover penalties, and all other available relief on behalf of PLAINTIFF and all other aggrieved employees who suffered one or more of the Labor Code violations set forth in California Labor Code Private Attorneys General Act of 2004. The damages and penalties sought by PLAINTIFF exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

1. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction” in all other causes” except those given by statute to other courts. The Statutes under which this action is brought do not specify any other basis for jurisdiction.

2. This Court has jurisdiction over DEFENDANT because, upon information and belief, DEFENDANT Corporation has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

3. Venue is proper in this Court because, upon information and belief, DEFENDANT maintains offices, has agents, and/or transacts business in the State of California, including the County of Los Angeles, and the acts and omissions giving rise to this action alleged herein relating to PLAINTIFF began and took place in the State of California, and the County of Los Angeles.

PARTIES

4. PLAINTIFF incorporates by reference the allegations set forth above as though fully set forth herein.

5. PLAINTIFF is an individual who at all times relevant herein resided and resided in the State of California, County of Los Angeles.

1 6. DEFENDANT at all relevant times, was and is, upon information and belief, a
2 corporation and at all relevant times, an employer whose employees were engaged throughout
3 the State of California, including the County of Los Angeles.

4 7. At all relevant times, Defendant was the “employer” of PLAINTIFF within the
5 meaning of all applicable state laws and statutes. On information and belief, Defendant
6 FANTASY COOKIE and DOES 1 through 10, are joint employers engaged in an integrated
7 enterprise, and they suffer and/or permit PLAINTIFF to work and/or exercise joint control over
8 the wages, hours, and/or working conditions of FANTASY COOKIE employees.

9 8. At all times herein relevant, DEFENDANT and DOES 1 through 100, and each of
10 them, were the agents, partners, joint venturers, joint employers, representatives, servants,
11 employees, successors-in-interest, alter egos, co-conspirators and assigns, each of the other, and
12 at all times relevant hereto were acting with the authority and ratification of one another and
13 within the course and scope of their authority as such agents, partners, joint venturers,
14 representatives, servants, employees, successors, co-conspirators and/or assigns, alter egos, and
15 all acts or omissions alleged herein were duly committed with the ratification, knowledge,
16 permission, encouragement, authorization and/or consent of each defendant designated as a DOE
17 herein.

18 9. The true names and capacities, whether corporate, associate, individual or
19 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to PLAINTIFF who sues
20 said defendants by such fictitious names. PLAINTIFF is informed and believes, and based on
21 that information and belief alleges, that each of the DEFENDANTS designated as a DOE is
22 legally responsible for the events and happenings referred to in this Complaint, and unlawfully
23 caused the injuries and damages to PLAINTIFF and the other aggrieved employees as alleged in
24 this Complaint. PLAINTIFF will seek leave of court to amend this Complaint to show the true
25 names and capacities when the same have been ascertained.

26 10. DEFENDANT and DOES 1 through 100 will hereinafter collectively be referred
27 to as “DEFENDANT” or “Fantasy Cookie”.

28 11. PLAINTIFF further alleges that DEFENDANT and DOES 1 through 100 directly

1 or indirectly controlled or affected the working conditions, wages, working hours, and conditions
2 of employment of PLAINTIFF and the other aggrieved employees so as to make each of said
3 DEFENDANTS employers liable under the statutory provisions set forth herein.

4 **FACTUAL BACKGROUND**

5 12. PLAINTIFF incorporates by reference the allegations set forth above as though
6 fully set forth herein.

7 13. PLAINTIFF was employed by FANTASY COOKIE on or around April 2013
8 through until the date of termination, August 29, 2023. FANTASY COOKIE was responsible
9 for payment of all wages at the time of PLAINTIFF's termination and the waiting time penalty
10 period for unpaid wages due to PLAINTIFF at the time of termination continued for 30 days
11 thereafter, based on FANTASY COOKIE's violations and unpaid wages to PLAINTIFF as
12 alleged herein.

13 14. At all material times, FANTASY COOKIE was PLAINTIFF's employer and
14 exercised sole and/or joint control over the wages, terms, and working conditions of
15 PLAINTIFF's employment.

16 15. PLAINTIFF worked at FANTASY COOKIE's warehouses located at 12322
17 Gladstone Ave., Sylmar, CA 91342.

18 **PAGA ALLEGATIONS**

19 16. PLAINTIFF incorporates by reference the allegations set forth above as though
20 fully set forth herein.

21 17. At all times herein set forth, PAGA was applicable to PLAINTIFF's employment
22 by DEFENDANT. At all relevant times set forth herein, DEFENDANT employed PLAINTIFF
23 and the other aggrieved hourly-paid or non-exempt employees who worked for DEFENDANT in
24 the State of California.

25 18. The "aggrieved employees" pursuant to Labor Section 2699(c) include: (1) all
26 current and former hourly paid, non-exempt employees who worked for FANTASY COOKIE at
27 any of its locations in the State of California at any time during the applicable PAGA period.

28 19. PLAINTIFF is an "aggrieved employee" as defined in Labor Code section

1 2699(c), because she was employed by FANTASY COOKIE during the applicable statutory
2 period and suffered the violations of the IWC Wage Order and the Labor Code as set forth
3 herein. PLAINTIFF intends to seek penalties on behalf of all aggrieved employees as defined
4 herein including those who sustained labor code violations that may not have affected
5 PLAINTIFF.

6 20. At all times herein set forth, PAGA provides that any provision of law under the
7 California Labor Code that provides for a civil penalty to be assessed and collected by the
8 LWDA for violations of the California Labor Code may, as an alternative, be recovered through
9 a civil action brought by an aggrieved employee on behalf of herself and other current or former
10 employees pursuant to procedures outlined in California Labor Code section 2699.3.

11 21. PAGA expressly establishes that any provision of the California Labor Code
12 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
13 departments, divisions, commissions, boards, agencies or employees for a violation of the
14 California Labor Code, may be recovered through a civil action brought by an aggrieved
15 employee on behalf of himself or herself, and other current or former employees. Whenever the
16 LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has
17 discretion to assess a civil penalty a court in a civil action is authorized to exercise the same
18 discretion, subject to the same limitations and conditions, to assess a civil penalty.

19 22. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
20 employee,” who is any person that was employed by the alleged violator and against whom one
21 or more of the alleged violations was committed.

22 23. PLAINTIFF was employed by DEFENDANTS and the alleged violation was
23 committed against her during the time of her employment and she is, therefore, an aggrieved
24 employee. PLAINTIFF and the other employees are “aggrieved employees” as defined by
25 California Labor Code section 2699(c) in that they are all current or former employees of
26 DEFENDANTS, and one of more of the alleged violations were committed against them.

27 24. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
28 employee, including PLAINTIFF, may pursue a civil action arising under PAGA after satisfying

1 the requirements of California Labor Code sections 2699.3 and 2699.5, which at the time that
2 PLAINTIFF sought to satisfy the statutory requirements, provided as follows:

3 a. The aggrieved employee was required to give written notice by certified mail
4 (hereinafter “Employee’s Notice”) to the LWDA and the employer of the specific provisions of
5 the California Labor Code alleged to have been violated, including the facts and theories to
6 support the alleged violations.

7 b. The LWDA was required to provide notice (hereinafter “LWDA Notice”) to the
8 employer and the aggrieved employer by certified mail that it does not intend to investigate the
9 alleged violation within sixty (60) calendar days of the postmark date of the Employee’s
10 Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within
11 sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved
12 employee may commence a civil action pursuant to California Labor Code section 2699 to
13 recover civil penalties in addition to any other penalties to which the employee may be
14 entitled.

15 25. On August 14, 2024, Plaintiff provided written notice by online submission to the
16 LWDA and by U.S. Certified Mail to DEFENDANT of the specific provisions of the California
17 Labor Code alleged to have been violated, including the facts and theories to support the alleged
18 violations.

19 26. As of the date of the filing of this Complaint, the LWDA has not provided notice
20 of its intention to investigate DEFENDANTS’ alleged violations within sixty-five (65) calendar
21 days of August 14, 2024, postmark date of the PAGA NOTICE sent by PLAINTIFF. (See Cal.
22 Lab. Code section 2699.3(a)(2)(A), nor has DEFENDANT provided notice of correction of
23 violations.

24 27. Therefore, Plaintiff satisfied the then-applicable administrative prerequisites
25 under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in
26 addition to other remedies, for violations of California Labor Code sections identified therein
27 including the following:

28 a. **Failure to Pay Overtime:** Defendant’s failure to pay legally required overtime

wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 510 and 1198.

b. **Failure to Provide Meal Periods:** Defendant's failure to provide legally required meal periods to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

c. **Failure to Provide Rest Periods:** Defendant's failure to provide legally required rest periods to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7.

d. **Failure to Pay Minimum Wages:** Defendant's failure to pay legally required minimum wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

e. **Failure to Timely Pay Wages Upon Termination:** Defendant's failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202. Defendant continued to fail to pay timely wages due and owing to Plaintiff and other aggrieved employees continuing each day after termination for up to 30 work days, rendering Defendant liable for violating the obligation to pay waiting time penalties.

f. **Failure to Timely Pay Wages During Employment:** Defendant's failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

g. **Failure to Provide Complete and Accurate Wage Statements:** Defendant's failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair

activity prohibited by California Labor Code section 226(a).

h. **Failure to Keep Complete and Accurate Payroll Records:** Defendant's failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

i. **Failure to Reimburse Necessary Business-Related Expenses and Costs:** Defendant's failure to reimburse Plaintiff and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

FIRST CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(Against Defendant and DOES)

(Violation of California Labor Code §§ 2698, *et seq.*)

28. PLAINTIFF incorporates by reference the allegations in Paragraphs 1 to 27 set forth above as though fully set forth herein.

29. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of herself or herself, and other current or former employees.

30. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

31. Based on the facts and theories set forth herein, Plaintiff alleges that DEFENDANT has willfully violated and/or continues to willfully violate, among other provisions of the Labor Code and applicable wage law, Labor Code section 1198, and the

1 applicable Industrial Welfare Commission (“IWC”) Wage Order. California Labor Code § 1198
2 provides that "The employment of any employee ... under conditions of labor prohibited by the
3 [Industrial Wage Orders] is unlawful." Such unlawful conduct gives rise to PAGA violations
4 and are subject to the statutory penalties set forth therein.

5 32. Plaintiff is entitled to any penalties permitted by law, including civil penalties
6 pursuant to Labor Code sections 2699(a) and 2699(f). Plaintiff seeks all such penalties on behalf
7 of the State of California, himself as an aggrieved employee, and all other current and former
8 aggrieved employees of DEFENDANT. Plaintiff and the other hourly-paid and/or non-exempt
9 employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in
10 that they are all current or former employees of DEFENDANT, and one or more of the alleged
11 violations was committed against them.

12 33. During the applicable PAGA period, DEFENDANT engaged in violations of the
13 rights of Plaintiff and other aggrieved employees through its: a) Failure to Pay Overtime; b)
14 Failure to Provide Meal Periods; c) Failure to Provide Rest Periods; d) Failure to Pay Minimum
15 Wages; Failure to Timely Pay Wages Upon Termination; e) Failure to Timely Pay Wages During
16 Employment; f) Failure to Provide Complete and Accurate Wage Statements; g) Failure to Keep
17 Complete and Accurate Payroll Records; and h) Failure to Reimburse Necessary Business-
18 Related Expenses and Costs.

19 34. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on
20 behalf of all aggrieved employees, requests and is entitled to recover from Defendant and each of
21 them, attorneys’ fees and costs pursuant to California Labor Code section 218.5, as well as all
22 statutory penalties against Defendant, and each of them, including but not limited to:

23 a. Penalties under California Labor Code section 2699 in the amount of a hundred
24 dollars (\$100) for each aggrieved employee per pay period;

25 b. Penalties under California Code of Regulations Title 8 section 11070 in the
26 amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial
27 violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each
28 subsequent violation;

1 c. Penalties under California Labor Code section 210 in addition to, and entirely
2 independent and apart from, any other penalty provided in the California Labor Code in the
3 amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial
4 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
5 subsequent violation; and

6 d. Any and all additional penalties and sums as provided by the California Labor
7 Code and/or other statutes.

8 35. Pursuant to California Labor Code section 2699(m), civil penalties recovered by
9 aggrieved employees shall be distributed as follows: sixty-five percent (65%) to the Labor and
10 Workforce Development Agency for the enforcement of labor laws and education of employers
11 and employees about their rights and responsibilities and thirty-five percent (35%) to the
12 aggrieved employees.

13 36. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and
14 costs as well as injunctive relief pursuant to California Labor Code sections 2699(k)(1) and any
15 other applicable statute.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFF, individually, and on behalf of other members of the
18 general public similarly situated and on behalf of other aggrieved employees pursuant to the
19 Private Attorneys General Act, prays for relief and judgment against DEFENDANT and those
20 fictitiously named DEFENDANTS, jointly and severally, as follows:

21 **AS TO THE FIRST CAUSE OF ACTION**

22 1. For civil penalties pursuant to the Private Attorneys' General Act including
23 California Labor Code sections 2699(a), (f) and (g), in addition to costs/expenses and
24 attorneys' fees for violation of California Labor Code including section 1198 and the
25 applicable IWC Wage Order; and

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1 2. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: October 29, 2024

SCHIMMEL & PARKS
A Professional Law Corporation



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