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11 persons similarly situated and similarly aggrieved employees

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

14 MARIA DURAN, individually and on behalf
15 of other persons similarly situated and
16 similarly aggrieved employees,

17 Plaintiffs,

18 v.

19 NEWPORT INGREDIENTS, an active
20 California Corporation; and DOES 1 through
21 25,

22 Defendants.

FILED

Superior Court of California
County of Los Angeles

01/21/2025

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

Case No.: 24STCV28550

Assigned to: Hon. Carolyn B. Kuhl
Department: SS-12
Complaint Filed: October 30, 2024

**FIRST AMENDED COMPLAINT –
CLASS AND REPRESENTATIVE
ACTION**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Provide Accurate Wage Statements; and
6. Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and Penalties Pursuant to Private Attorneys General Act (“PAGA”)

1 Plaintiff MARIA DURAN ("Plaintiff"), on behalf of herself and all others
2 similarly situated, based on information and belief, complains and alleges:

3 I.

4 INTRODUCTION

- 5 1. This class and representative action lawsuit arises out of the failure of
6 Defendant NEWPORT INGREDIENTS (referred here as "Defendant") to
7 provide meal periods at the proper intervals, to provide rest periods at the
8 proper intervals, to pay all wages owed including overtime, to provide accurate
9 and legally compliant wage statements, and to pay all wages owed to
10 terminated or separated employees in a timely manner.
- 11 2. Defendant employed Plaintiff during the applicable time period, utilizing
12 consistent policies and procedures in violation of Labor Code §200, et seq.,
13 Labor Code §500, et seq., Labor Code §1194, et seq., and the applicable Wage
14 Orders issued by the California Industrial Welfare Commission.
- 15 3. Defendant Newport Ingredients is engaged in the business of supplying and
16 distributing food products and ingredients. Plaintiff Duran was employed by
17 Defendant from on or about June 29, 2020 until her separation on or about
18 November 14, 2023. At all times during her employment, Plaintiff had a non-
19 exempt classification. Plaintiff was working at Defendant's facility located at
20 8825 Mercury Lane in Pico Rivera, California 90660.
- 21 4. At the time of her termination, Plaintiff was not paid all her wages.
- 22 5. Plaintiff was also deprived of lawful meal and rest periods, not paid all wages
23 including overtime she was entitled to, and failed to receive accurate and
24 legally compliant itemized wage statements.
- 25 6. Defendant had a consistent policy of not paying wages for all hours worked,
26 including overtime wages as applicable including failing to calculate overtime
27 wages with respect to employees' regular rate of compensation.
- 28

- 1 7. Defendant had a consistent policy of requiring its employees, including
2 Plaintiff, to work through meal periods or work without a meal period for at
3 least five (5) hours of a shift and failing to pay such employees one (1) hour of
4 pay at the employees' regular rate of compensation for each workday that the
5 meal period was not provided or as required by California state wage and hour
6 laws.
- 7 8. Defendant had a consistent policy of failing to allow their employees, including
8 Plaintiff, rest periods for at least ten (10) minutes per four (4) hours, or a major
9 fraction, worked, and failing to pay such employees one (1) hour of pay at their
10 regular rate of compensation for each workday that the rest period was not
11 provided, or other compensation, as required by California state and wage and
12 hour laws.
- 13 9. Defendant knowingly provided inaccurate wage statements to its
14 employees, including Plaintiff, that did not correctly include the correct wages,
15 including compensation for meal periods not provided and rest period not
16 authorized or permitted as required by California state wage and hour laws.
- 17 10. Defendant had a consistent policy of failing to pay its employees, including
18 Plaintiff, all wages due at the termination or separation, in violation of
19 California state wage and hour laws.
- 20 11. Plaintiff, on behalf of herself and all Class Members, brings this action
21 pursuant to Lab. Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, and 1194.2,
22 seeking unpaid wages, penalties, equitable relief, and reasonable attorneys' fees
23 and costs.
- 24 12. Plaintiff, on behalf of herself and the putative class members, also brings
25 this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive
26 relief, restitution, and disgorgement of all benefits obtained by Defendant as a
27 result of Labor Code and applicable Wage Order violations.
- 28

1 13. Plaintiff, on behalf of the State of California, himself, and other similarly
2 aggrieved employees, also brings this action pursuant to California Private
3 Attorney General Act (“PAGA”), Cal. Lab. Code §2698, et seq. seeking unpaid
4 wages and other compensation, penalties, and reasonable attorneys’ fees and
5 costs.

6
7 **II.**

8 **JURISDICTION AND VENUE**

- 9 14. Venue as to each defendant is proper in this judicial district, pursuant to Code
10 of Civil Procedure § 395. The County of Los Angeles is the proper venue,
11 because work for Defendant was performed by Plaintiff and other class
12 members in the County of Los Angeles and the legal obligations owed by
13 Defendant to Plaintiff and other class members were breached in the County of
14 Los Angeles.
- 15 15. The California Superior Court has jurisdiction in this matter, because Plaintiff is
16 a resident of California, Defendant is qualified to do business in California, and
17 regularly conducts business in California.

18
19 **III.**

20 **THE PARTIES**

- 21 16. Plaintiff MARIA DURAN is a resident of the State of California, and was
22 employed by Defendant in Los Angeles County from on or about June 29, 2020
23 through on or about November 14, 2023.
- 24 17. Defendant NEWPORT INGREDIENTS was an active California Corporation at
25 all times during the claims of Plaintiff and the putative class, was doing
26 business in California, and was headquartered in California.
- 27 18. Plaintiff is ignorant of the true names, capacities, relationships and extent of
28 participation in the conduct herein alleged, of the defendants sued herein as

Does 1 through 25, but she is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will amend this First Amended Complaint to allege their true names and capacities when ascertained.

19. Plaintiff is informed and believes and 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 defendant are legally attributable to the other defendants.

IV.

GENERAL ALLEGATIONS

20. At all times relevant here and as set forth in the following paragraphs of this First Amended Complaint, Defendant employed more than 100 people; and Plaintiff and each member of the putative class was employed by Defendant, and each of them, in the State of California.

21. The employees of Defendant have not been provided: uninterrupted off duty thirty-minute meal periods for work periods of more than five (5) hours per day; second uninterrupted off duty thirty-minute meal periods for work periods of more than ten (10) hours per day; and have not been permitted to take ten-minute (10) rest periods for work periods of four (4) hours or major fractions, pursuant to the Labor Code, and applicable IWC Wage Orders.

22. Defendant failed to pay employees wages owed for all hours worked, including overtime hours as applicable.

23. Defendant failed to pay Plaintiff and the members of her putative class upon separation the wages earned and unpaid at the time of discharge.

24. Defendant failed to provide Plaintiff and the putative members of her class, at the time of each payment of wages, an accurate itemized statement in writing,

1 showing the gross wages earned, including premium wages owed for failing to
2 provide meal and/or rest periods at the proper intervals.

3 25. Plaintiff asserts claims for relief on behalf of herself and other similarly situated
4 persons as a class action pursuant to Code of Civil Procedure § 382. Plaintiff
5 and all members of her putative class are described below with specificity and
6 fall in several categories of subclasses whose rights have been violated under
7 the law. Defendant has made no effort as of the filing of this First Amended
8 Complaint to correct or remedy the violations of law specified here.

9
10 **V.**

11 **CLASS ACTION ALLEGATIONS**

12 26. Plaintiff brings this action on behalf of herself and all other employees of
13 Defendant who are similarly-situated persons as a class action pursuant to
14 California Code of Civil Procedure § 382. There is a well-defined common
15 interest by and among Plaintiff and the putative class members, and it is
16 impractical to bring all those individuals before the court under separate,
17 different and repetitive actions. Plaintiff also reserves the right to amend or
18 modify the class descriptions set forth below in greater specificity or clarity if
19 required in the future in accordance with California Rules of Court, rule 3.765
20 (b). The class which Plaintiff seeks to represent is composed of and defined as
21 follows:

22 “Plaintiff Class” – All of Defendant’s current and former non-exempt
23 employees who worked for Defendant in California, during the four
24 years before the filing of the Complaint through the time of class
25 certification.

26 27. Plaintiff seeks to certify the following subclasses of employees:

27 a) “Meal Period Subclass” – All members of Plaintiff Class who worked
28 each period exceeding five (5) hours without an uninterrupted, off

1 duty, thirty (30) minute meal period and/or periods in excess of ten (10)
2 hours without a second uninterrupted, off duty, thirty (30) minute
3 meal periods; and were not provided compensation of one hour's pay
4 at the employee's regular rate of compensation for each day that a meal
5 period was not provided.

- 6 b) "Rest Period Subclass" – All members of Plaintiff Class who worked
7 periods of four (4) hours or major fraction thereof without a duty free
8 rest period of at least 10-minutes and who were not compensated one
9 hour's pay at the employee's regular rate of compensation for each day
10 that a rest period was not permitted.
- 11 c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were
12 not paid their minimum/actual wages, including the time that was
13 unlawfully considered by Defendant as off-the-clock, as well as
14 overtime wages for hours worked in excess of eight hours per day at
15 the one and a half rate or at a double time rate as applicable.
- 16 d) "Waiting Time Subclass" – All members of Plaintiff Class to whom
17 Defendant failed to pay all wages due to them upon termination or
18 resignation under Labor Code §§ 201-203.
- 19 e) "Wage Statement Subclass" – All members of Plaintiff Class to whom
20 Defendant improperly failed to provide accurate and legally compliant
21 itemized wage statements under Labor Code §§ 226.
- 22 f) "UCL Subclass" – All members of the Meal Period, Rest Period, Unpaid
23 Wage, Waiting Time, Wage Statement Subclasses who were subject to
24 unlawful, illegal, unfair and/or deceptive business acts and practices by
25 Defendant and are entitled to disgorgement and restitution of unpaid
26 wages.

27 28. There is a well-defined community of interest among many persons who
28 comprise a readily ascertainable class:

- 1 a) Numerosity - The potential members of the Class and Subclasses as
2 defined here are so numerous that the individual joinder of all of them as
3 named plaintiffs is impracticable. The number of members of the Class
4 and Subclasses is unknown to Plaintiff. It is however estimated that the
5 members are more than 100 individuals, and their identities may readily
6 be ascertained from Defendant's records.
- 7 b) Typicality – The claims of Plaintiff are typical of the claims of all
8 members of the Class and Subclasses, who sustained similar damages
9 arising out of Defendant's common course of conduct in violation of law
10 as alleged.
- 11 c) Ascertainable Class – The proposed Class and Subclasses are
12 ascertainable as the members can readily be identified and located based
13 on the Defendant's payroll and personnel records.
- 14 d) Adequacy – Plaintiff is an adequate representative of the Class and
15 Subclasses: Plaintiff will fairly protect the interests of the members, she
16 has no interest adverse to the members, and she will vigorously pursue
17 this lawsuit on behalf of all the members of the Class and Subclasses.
18 Plaintiff's attorneys are competent, skilled and experienced in litigating
19 large employment law class actions.
- 20 e) Superiority - Class action treatment will allow a large number of
21 similarly situated persons to prosecute their common claims in a single
22 forum simultaneously, efficiently, and without the unnecessary
23 duplication of effort and expense that numerous individual actions
24 would require. Further, the monetary amounts due to many individual
25 members of the Class and Subclasses are likely to be relatively small, and
26 the burden and expense of individual litigation would make it difficult
27 or impossible for the members to seek and obtain relief. A class action
28 will serve an important public interest by permitting employees harmed

1 by Defendant's unlawful practices to effectively pursue recovery of the
2 sums owed to them.

- 3 f) Common Questions of Law and Fact – There are common questions of
4 law and fact as to the members of the Class and Subclasses which are
5 superior to questions affecting only individual members of the Class and
6 Subclasses. The common questions of law and fact may be summarized
7 as follows and if necessary will be refined with the progress of formal
8 discovery in the case:
- 9 g) Whether Defendant failed to provide members of Plaintiff Class who
10 ceased employment with Defendant all wages owed at the time of the
11 cessation of the employee-employer relationship?
- 12 h) Whether Defendant violated California law and applicable Wage Orders
13 by failing to provide Plaintiff Class members with paid ten-minute (10)
14 rest periods for each four hours worked?
- 15 i) Whether the remedy for an employer's failure to provide rest breaks as
16 required by law is a premium wage for hardship of missing a lawful rest
17 break?
- 18 j) Whether Defendant violated California law and applicable Wage Orders
19 by failing to provide Plaintiff Class members with an off-duty thirty
20 minute (30) meal period for more than five hours of work?
- 21 k) Whether Defendant violated California law and applicable Wage Orders
22 by failing to provide members of Plaintiff Class with a second meal
23 period?
- 24 l) Whether the remedy for an employer's failure to provide meal period as
25 required by law is a premium wage for hardship of missing a lawful
26 meal period?
- 27 m) Whether Defendant violated California law, including the applicable
28 wage orders by failing to properly compensate Plaintiff Class members

for all hours worked, including overtime hours and/or double time hours as applicable?

- n) Whether Plaintiff Class is entitled to waiting time penalties under Labor Code § 203?
- o) Whether Defendant violated California law by its failure to provide Plaintiff Class with accurate and legally compliant itemized wage statements?
- p) Whether Defendant violated Business and Professions Code §§ 17200 et. seq., Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, and applicable Wage Orders which constitutes violations of the public policy?
- q) Whether Plaintiff Class is entitled to an equitable relief in accordance with Business and Professions Code §§ 17200 et. seq.
- r) Whether Defendant's affirmative defenses, if any, raise common issues of law and fact as to Plaintiff Class as a whole and/or Subclasses in particular?

VI.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

(Labor Code §§ 226.7, 512)

(By Plaintiff and Meal Period Subclass against Defendant)

29. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint as if fully alleged herein.

30. By its failure to provide thirty minute (30) uninterrupted meal period as well as second meal period, if applicable, to Plaintiff and members of the Meal Period Subclass, Defendant willfully violated the provisions of Labor Code §§ 226.7, 512 and applicable IWC Wage Orders.

1 31. As a result of Defendant's unlawful conduct, Plaintiff and other members of the
2 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
3 below, and fully incorporated here as applicable.
4

5 **VII.**

6 **SECOND CAUSE OF ACTION**
7 **FAILURE TO PROVIDE REST PERIODS OR**
8 **COMPENSATION IN LIEU THEREOF**
9 **(Labor Code § 226.7)**
10 **(By Plaintiff and Rest Period Subclass against Defendant)**

11 32. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint
12 as if fully alleged herein.

13 33. By its failure to provide ten-minute (10) rest periods for every four (4) hours of
14 work or major fraction thereof per day to Plaintiff and Rest Period Subclass,
15 Defendant willfully violated Labor Code § 226.7 and applicable Wage Orders.

16 34. As a result of Defendant's unlawful conduct, Plaintiff and other members of the
17 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
18 below, and fully incorporated here as applicable.

19 **VIII.**

20 **THIRD CAUSE OF ACTION**
21 **FAILURE TO PAY WAGES**
22 **(Labor Code §§ 510, 1194, 1194.2)**
23 **(By Plaintiff and the Unpaid Wage Subclass against Defendant)**

24 35. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint
25 as if fully alleged herein.

26 36. At all relevant times, Plaintiff and the other members of the Unpaid Wage Class
27 were employees of Defendant covered by Labor Code §§ 510, 1194, 1194.2 and
28 applicable Wage Orders, and they were entitled to receive minimum and

1 overtime wages for all hours worked and liquidated damages equal to
2 unlawfully unpaid minimum wages with interest.

3 37. Defendant has violated California law and the specified provisions of the Labor
4 Code and applicable Wage Orders by its failure to pay all wages due in
5 accordance, including minimum wages, wrongfully classified off-the-clock
6 wages and overtime pay. As a result of Defendant's unlawful conduct, Plaintiff
7 and other members of the Subclass have suffered damages as articulated in the
8 Prayer for Relief, set forth below, and fully incorporated here as applicable.
9

10 **IX.**

11 **FOURTH CAUSE OF ACTION**

12 **FAILURE TO PAY WAGES DUE AT TERMINATION**

13 **(Labor Code §§ 201, 202, 203)**

14 **(By Plaintiff and Waiting Time Subclass against Defendant)**

15 38. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint
16 as if fully alleged herein.

17 39. By its failure to timely pay Plaintiff and Waiting Time Subclass, Defendant
18 willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable
19 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
20 to timely pay such wages, the employer must, as penalty, continue to pay the
21 employee's wages until the back wages are paid in full or an action is
22 commenced.

23 40. As a result of Defendant's unlawful conduct, Plaintiff and other members of the
24 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
25 below, and fully incorporated here as applicable.

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X.

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS
(Labor Code §226)
(By Plaintiff and Wage Statement Subclass against Defendant)

41. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint as if fully alleged herein.
42. By its failure to provide accurate itemized wage statements, semimonthly or at the time of each payment of wages, Defendant willfully violated the provisions of Labor Code §226 and applicable Wage Orders.
43. As a result of Defendant's unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

XI.

SIXTH CAUSE OF ACTION
VIOLATION OF UNFAIR BUSINESS PRACTICES ACT
(Bus. & Prof. Code §§ 17200, *et seq.*)
(By Plaintiff, Plaintiff Class and All Subclasses against Defendant)

44. Plaintiff incorporates paragraphs 1 through 43 of this First Amended Complaint as if fully alleged herein.
45. The alleged unlawful conduct of Defendant constitutes unfair competition pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for the time period starting four (4) years before the filing of the Complaint.
46. As a result, Plaintiff and other members of Plaintiff Class and Subclasses have suffered injury in fact and lost money or property. Plaintiff and said members have been deprived of their rights as set forth in this First Amended Complaint, including, but not limited to, payment of minimum and/or actual wages for all

1 hours worked.

2 47. Pursuant to Business and Professions Code § 17203, Plaintiff and other
3 members of Plaintiff Class and Subclasses are entitled to restitution of all wages
4 owed to them under the Labor Code, and interest thereon, in which they had a
5 property interest, which Defendant failed to pay to them but withheld and
6 retained for themselves. Restitution of the money owed to Plaintiff, Plaintiff
7 Class and Subclasses is necessary to prevent Defendant from becoming unjustly
8 enriched by its failure to comply with the Labor Code provisions.

9 48. Plaintiff and members of Plaintiff Class and Subclasses are entitled to recover
10 reasonable attorney's fees in connection with their unfair competition claims
11 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine
12 and/or the common fund doctrine.

13 49. Plaintiff requests the court to issue a preliminary and permanent injunction
14 prohibiting Defendant from committing the Labor Code and applicable Wage
15 Order violations set forth in this First Amended Complaint, and Plaintiff and
16 the members of Plaintiff Class and Subclasses have suffered further damages as
17 articulated in the Prayer for Relief, set forth below, also incorporated here fully
18 as applicable.

19
20 **XII.**

21 **SEVENTH CAUSE OF ACTION**

22 **VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT**

23 **(LABOR CODE § 2699 *et seq.*)**

24 **(By Plaintiff and Aggrieved Employees Against Defendants)**

25 50. Plaintiff incorporates paragraphs 1 through 49 of this First Amended Complaint
26 as if fully alleged herein.

27 51. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
28 private parties may recover civil penalties for violations of the California Labor

Code. PAGA penalties are in addition to any other relief available under the Labor Code.

52. As set forth above, Defendants violated the California Labor Code by consistently failing to employ Plaintiff and other similarly situated employees in compliance with California law.

53. Plaintiff provided written notice by certified mail to Defendants on October 31, 2024, and electronic notice to the State Labor & Workforce Development Agency ("LWDA"), of the legal claims and theories of this case. To date, and after 65 days from the date of mailing of notice, the LWDA has not notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim for civil penalties under the PAGA. Accordingly, Plaintiff exhausted administrative remedies as required by Labor Code § 2699.3. Plaintiff's PAGA claim was assigned case number LWDA-CM-1059453-24 by the LWDA. Appended hereto is a copy of the notice communicated by Plaintiff.

54. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to recover the maximum civil penalties permitted by law from Defendants for the violations of Labor Code alleged in this First Amended Complaint and the notice communicated by Plaintiff.

55. Plaintiff and all other aggrieved employees are also entitled to recover their attorneys' fees and costs under Labor Code § 2699.

XIII.

PRAYER FOR RELIEF

WHEREFORE, on behalf of herself and all others similarly situated, Plaintiff prays for relief and judgment against Defendant as follows:

- 1 A. An order certifying that Plaintiff may pursue her claims as a class action
2 under Section 382 of the Code of Civil Procedure; and it is further requested that
3 Plaintiff Class and each Plaintiff Subclass be certified;
- 4 B. An order appointing Plaintiff as Class representative;
- 5 C. An order appointing Plaintiff's counsel as Class counsel;
- 6 D. Disgorgement of Defendant's wrongfully obtained profits and restitution
7 of unpaid wages under Business and Professions Code §§ 17203, 17204;
- 8 E. Damages for unpaid additional compensation for failing to provide
9 timely or uninterrupted or lawful meal periods and rest periods;
- 10 F. Damages for unpaid minimum wages under Labor Code § 1194;
- 11 G. Damages for unpaid overtime and double time wages to the extent
12 applicable;
- 13 H. Liquidated damages under Labor Code § 1194.2;
- 14 I. Statutory penalties under Labor Code § 226(e);
- 15 J. Damages for unpaid penalty wages under Labor Code § 203;
- 16 K. Reasonable attorney's fees and costs pursuant to statute, including, but
17 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;
- 18 L. Enjoinment of Defendant from further acts of unfair competition and
19 continuous violations of the Labor Code and applicable Wage Orders;
- 20 M. Civil penalties under Labor Code Section 2699 (75% payable to the
21 LWDA and 25% payable to aggrieved employees); and
- 22 N. For costs of the suit incurred; and

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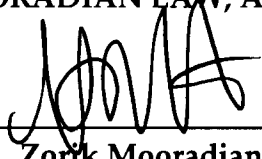
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1 O. For such other relief that the Court may deem just and proper, including
2 prejudgment interest and costs.

3
4 DATED: Jan. 21, 2025

MOORADIAN LAW, APC

5
6 By: _____

7 Zorik Mooradian,

8 Haik Hacopian,

9 Attorneys for Plaintiff MARIA DURAN

10 individually and on behalf of other persons

11 similarly situated and similarly aggrieved

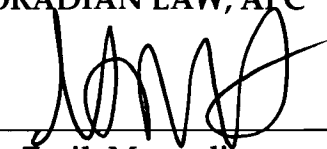
12 employees

13 **DEMAND FOR A JURY TRIAL**

14 Plaintiff MARIA DURAN hereby demands a jury trial in the above case.

15
16 DATED: Jan. 21, 2025

MOORADIAN LAW, APC

17
18 By: _____

19 Zorik Mooradian,

20 Haik Hacopian,

21 Attorneys for Plaintiff MARIA DURAN

22 individually and on behalf of other persons

23 similarly situated and similarly aggrieved

24 employees

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HAIK HACOPIAN

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OCTOBER 31, 2024

VIA USPS CERTIFIED MAIL

Newport Ingredients
5850 W. 3rd Street, #142
Los Angeles, CA 90036
9589 0710 5270 0726 6281 41

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Newport Ingredients

To Whom It May Concern:

This office represents Maria Duran with respect to Private Attorneys General Act (“PAGA”) claims that she intends to pursue against Newport Ingredients (hereinafter “Newport”) based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

Newport is engaged in the business of supplying and distributing food products and ingredients. Ms. Duran worked as a non-exempt employee of Newport at their facility located at 8825 Mercury Lane in Pico Rivera, California 90660. Newport employs numerous non-exempt, hourly paid employees such as Ms. Duran (“Aggrieved Employees”). Unfortunately, Newport has engaged in the following practices with respect to their Aggrieved Employees:

Identity and Capacity of Employers/Joint Employers

Ms. Duran intends to pursue a PAGA action against Newport and its parent companies, subsidiaries, successors, owners, officers, directors, and managing agents (collectively referred to as “Newport” as well). Ms. Duran will seek to hold all owners, directors, officers and managing agents of Newport personally liable for said violations to the extent permitted under Labor Code § 558 and/or Labor Code § 558.1.

All business entities referenced herein were the alter-egos of each and every other entity and individual referenced herein and there exists, and at all times herein mentioned has existed, a unity of interest and ownership between said entities and individuals such that any separateness between them ceased to exist in that said individuals and other entities have completely controlled, dominated, managed, and operated the business entities and have intermingled the assets of each to suit convenience. Further, each of the business entities are, and at all times mentioned herein were, mere shells, instrumentalities, and conduits through which the other above-referenced entities/individuals carried out their business while exercising complete control and dominance of the business such that individuality or separateness did not truly exist. Therefore, in the PAGA action, Ms. Duran will seek to hold each said individual and/or entity jointly and severally liable for any and/or all violations committed by the other above-referenced individuals and/or entities.

It should further be noted that Newport and its parent companies, subsidiaries, successors, owners, officers, directors, and/or managing agents have been engaged in a joint enterprise. Moreover, said persons/individuals are joint employers of Aggrieved Employees for the following reasons: 1) Said entities/individuals directly and/or indirectly exercised control over the wages, hours or working conditions of Aggrieved Employees; 2) Said entities/individuals had knowledge (either personally or through officers, directors and/or managing agents) of the work Aggrieved Employees were doing for them while supposedly being employed by another entity/individual and failed to prevent the work from occurring; and 3) Said entities retained or assumed a general right of control over hiring, direction, supervision, discipline, discharge, and relevant day-to-day aspects of the workplace behavior of Aggrieved Employees.

Failure to Pay Wages

Newport implemented the policy and practice of failing to pay Aggrieved Employees for all hours worked. Additionally, Aggrieved Employees continued working despite being clocked out for meal breaks as such meal breaks were not off-duty because Aggrieved Employees were prevented from leaving the work premises. Aggrieved Employees were also required to complete

work off-the-clock before and after their shifts, including due to donning and doffing their uniforms and equipment. The foregoing resulted in underpayment of wages, including underpayment of overtime, and double-time to the extent applicable. This is in addition the underpayment of overtime and/or double-time due to misapplication of an Aggrieved Employee's regular rate of compensation.

Meal Breaks

Newport engages in the practice of not allowing mandated meal breaks. Due to understaffing, no break relief was available and Aggrieved Employees, including Ms. Duran, were forced to work through meal breaks, or take them at later times. To the extent any meal break was provided, Aggrieved Employees were disallowed from leaving the work premises and such breaks were not off-duty. Aggrieved Employees did not receive premium pay for all such missed, late, or short meal periods. Moreover, Aggrieved Employees are owed wages for off-the-clock work resulting from meal periods being on-duty as described above. To the extent any premium wages were paid, they were not calculated in accordance with an Aggrieved Employee's correct regular rate of compensation.

Rest Breaks

Newport engages in the practice of not allowing mandated rest breaks and not compensating Aggrieved Employees for any missed, late, or short rest breaks. Specifically, Aggrieved Employees were never afforded an opportunity to take rest breaks every four hours, or major fraction thereof, they worked. Due to understaffing, no break relief was available and Aggrieved Employees, including Ms. Duran, were forced to work through rest breaks. To the extent any rest break was provided, Aggrieved Employees were disallowed from leaving the work premises and such breaks were not off-duty. Moreover, Aggrieved Employees did not receive premium pay for all such missed rest breaks. To the extent any premium wages were paid, they were not calculated in accordance with an Aggrieved Employee's correct regular rate of compensation.

Waiting Time

At the time of an Aggrieved Employee's separation (whether it be by termination or resignation) Newport has failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time wages to the extent applicable.

Sick Leave

Newport was required to maintain a sick leave benefit with mandated amounts of accrual of sick time but failed to allow Aggrieved Employees to accrue sick time in the amount required by law. As well, the Newport failed to permit Aggrieved Employees from using their accrued sick time for the purposes set forth under California law and sick leave would be denied to the extent off the clock work would need to be factored into accrual.

Noncompliant Wage Statements

Newport has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not Aggrieved Employees receive all wages they were entitled to, including meal and rest break premiums, other premiums, and payment of vacation and sick leave benefits.

Failure to Fully Reimburse Employee Expenses

Newport required the use of personal protective by Aggrieved Employees such as Ms. Duran but never full provided compensation or reimbursement for such purchases by Aggrieved Employees.

Additional Penalties

Ms. Duran and all other similarly aggrieved California employees intend to seek all civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which Newport has violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: Newport violated, and continues to violate, Labor Code Section 201 or other applicable law, wage order, regulation, by failing to pay the Aggrieved Employees it has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: Newport violated, and continues to violate, Labor Code Section 202 or other applicable law, wage order, regulation, by failing to pay Aggrieved Employees who

quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: Newport violated, and continues to violate, Labor Code Section 203 or other applicable law, wage order, regulation, by failing to pay 30 days of continuing wages to Aggrieved Employees owed wages (explained above) whose employment ended.

Labor Code Sections 204 and 210: Newport violated, and continues to violate, Labor Code Sections 204 and 210 or other applicable law, wage order, regulation, by failing to pay wages to Aggrieved Employees for all hours worked as explained above including failing timely pay regular wages after the close of applicable payroll periods.

Labor Code Section 226: Newport violated, and continues to violate, Labor Code Section 226(a), or other applicable law, wage order, regulation by failing to provide Aggrieved Employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: Newport violated, and continues to violate, Labor Code Section 226.7 or other applicable law, wage order, regulation, by failing to provide meal periods and/or rest periods to Aggrieved Employees that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Sections 245.5, 246, and 246.5: Newport has violated and continues to violate Labor Code § 245.5 (definition of employee) and § 246 (mandated amounts of accrual of sick time) by failing to allow Aggrieved Employees to accrue sick time in the amount required by law. As well, the Newport has violated and continues to violate Labor Code § 246.5 by failing to permit Aggrieved Employees from using their accrued sick time for the purposes set forth under California law.

Labor Code Sections 500, 510 and 1198: Newport violated, and continues to violate, Labor Code Sections 500, 510, 1198, or other applicable law, wage order, regulation by failing to pay minimum wage or overtime compensation to Aggrieved Employees required by law.

Labor Code Section 512: Newport violated, and continues to violate, Labor Code Section 512 or other applicable law, wage order, regulation by not providing Aggrieved Employees with legally compliant meal periods.

Labor Code Sections 1182.12, 1194, and 1198: Newport has violated and continues to violate Labor Code §§ 1182.12, 1194, 1198 or other applicable law, wage order, regulation by failing to pay Aggrieved Employees at least the minimum wage required under the law.

Labor Code Sections 2800 and 2802: Newport violated and continues to violate, Labor Code Sections 2800 and 2802 by failing to indemnify Aggrieved Employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we intend to file an appropriate action pursuant to Labor Code Section 2698 *et seq.* Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

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Haik Hacopian <haik.hacopian@gmail.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "haik.hacopian@gmail.com" <haik.hacopian@gmail.com>

Thu, Oct 31, 2024 at 4:53 PM

10/31/2024

LWDA Case No. LWDA-CM-1059453-24
Law Firm : Mooradian Law, APC
Plaintiff Name : Maria Duran
Employer: Newport Ingredients
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm