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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

24CV07248

WILLIAM BOWEN, as an individual and on
behalf of all other aggrieved employees,

Plaintiff,

vs.

THE F. A. BARTLETT TREE EXPERT
COMPANY, a Connecticut Corporation; and
DOES 1 through 100, inclusive,

Defendants.

Case No. _____

**REPRESENTATIVE ACTION
COMPLAINT:**

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

UNLIMITED CIVIL CASE

1 Plaintiff William Bowen (“Plaintiff”), on behalf of himself and all other aggrieved
2 employees, hereby brings this Representative Action Complaint against Defendants The F. A.
3 Bartlett Tree Expert Company, a Connecticut Corporation; and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all other aggrieved employees, hereby brings
7 this representative action for recovery of civil penalties under California Labor Code §§ 2698 *et*
8 *seq.*

9 2. This Court has jurisdiction over Defendants because, upon information and belief,
10 Defendants are citizens of California, Defendants have sufficient minimum contacts in
11 California, or otherwise intentionally avail themselves to the California market so as to render
12 the exercise of jurisdiction over them by the California courts consistent with the traditional
13 notions of fair play and substantial justice.

14 **VENUE**

15 3. Venue as to each Defendant is proper in this judicial district pursuant to California
16 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions
17 complained of herein occurred in the County of Santa Barbara. Further, at all times relevant
18 herein Plaintiff was employed by Defendants within the County of Santa Barbara.

19 **PARTIES**

20 4. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was, and currently is, a California resident, residing in the County of Santa Barbara.
22 During the one year immediately preceding Plaintiff’s giving of the required notice under the
23 PAGA, and within the statute of limitations periods applicable to the cause of action pled herein,
24 Plaintiff was employed by Defendants as an hourly non-exempt employee.

25 5. Plaintiff is informed and believes, and based thereon alleges, that during the one
26 year preceding Plaintiff’s giving of the required notice under the PAGA and continuing to the
27 present, Defendants did (and do) business by to engaging in tree and shrub care around the world
28 for residential, commercial, and government clients, and employed Plaintiff and other similarly-

1 situated hourly non-exempt employees within the County of Santa Barbara and, therefore, were
2 (and are) doing business in the County of Santa Barbara and the State of California.

3 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
4 herein, Defendants were licensed to do business in California and the County of Santa Barbara,
5 and were the employers of Plaintiff and the Aggrieved Employees (as defined in Paragraph 18).

6 7. Plaintiff does not know the true names or capacities, whether individual, partner,
7 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
8 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
9 amend this Representative Action Complaint when such true names and capacities are discovered.
10 Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious defendants,
11 whether individual, partners, or corporate, were responsible in some manner for the acts and
12 omissions alleged herein, and proximately caused Plaintiff and the Aggrieved Employees (as
13 defined in Paragraph 18) to be subject to the unlawful employment practices, wrongs, injuries,
14 and damages complained of herein.

15 8. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
16 herein, Defendants were and are the employers of Plaintiff and the Aggrieved Employees (as
17 defined in Paragraph 18).

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

25 10. At all times mentioned herein, Defendants, and each of them, were members of
26 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
28 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the

Aggrieved Employees (as defined in Paragraph 18).

REPRESENTATIVE ACTION ALLEGATIONS

11. Defendants provide residential and commercial tree and shrub care and property maintenance. Plaintiff worked for Defendants in Santa Barbara County as a non-exempt “crew leader” (or similarly titled position) from approximately July 31, 2023, until approximately July 19, 2024.

12. During Plaintiff’s employment with Defendants, Defendants failed to compensate Plaintiff and other aggrieved employees for all minimum and overtime wages due to Defendants’ unlawful timekeeping policies and practices, which failed to accurately record all hours worked. Rather than allowing Plaintiff and other aggrieved employees to punch in and out during work hours, Plaintiff’s supervisors, including Asher Gotzmer, instructed Plaintiff and other aggrieved employees to write down hours at the end of the workday that always began with employees’ scheduled 7:00 a.m. start time, regardless of when employees actually started working. In fact, Plaintiff and other aggrieved employees were required to arrive approximately 15-30 minutes before 7:00 a.m. in order to be in their uniforms and protective gear by the scheduled start time, and Plaintiff and other aggrieved employees were not compensated for the time worked prior to their scheduled shifts. When Plaintiff submitted a daily timesheet that did not conform to his supervisors’ timekeeping practices, the supervisors required Plaintiff to retroactively adjust his timesheets at the end of the week to reflect those practices, regardless of when Plaintiff actually started work on those days. As a result, Defendants failed to pay Plaintiff and other aggrieved employees minimum and overtime wages for all hours worked.

13. Throughout Plaintiff’s and other aggrieved employees’ employment with Defendants, Plaintiff and other aggrieved employees were not provided with a full 30 minutes of net rest for their meal periods. Defendants’ timekeeping policies, as described above, extended to their meal period policies and practices, wherein Defendants did not permit Plaintiff and other aggrieved employees to punch in and out during their actual meal periods, but instructed them at the end of each day to write down exactly 30 minutes for meal periods between 11:00 a.m. and 12:00 p.m., whether or not the employees were actually permitted to take meal periods. In fact,

1 due to work demands, Plaintiff and other aggrieved employees were almost never provided with
2 first meal periods commencing before the end of the fifth hour due to work demands. Defendants
3 also required Plaintiff to travel between job sites during his purported lunch periods, resulting in
4 time worked for which he was not compensated. Defendants also failed to provide Plaintiff and
5 other aggrieved employees with a second duty-free full 30-minute meal period for shifts of over
6 10.0 hours in violation of California law. On occasions when Plaintiff and other aggrieved
7 employees did not receive a second meal period, they were instructed by supervisors either to
8 record a 30-minute meal period they were not permitted to take, or they were instructed to record
9 fewer than 10.0 hours worked in order to make it seem as if the employees were not eligible for
10 the second meal period. When Plaintiff submitted a daily timesheet that did not conform to his
11 supervisors' meal period practices, the supervisors required Plaintiff to retroactively adjust his
12 timesheet at the end of the week to reflect compliant 30-minute meal periods after the fifth and
13 tenth hours of work, whether or not Plaintiff was actually permitted to take these meal periods.
14 Further, on those occasions when Defendants failed to provide a legally compliant meal period to
15 Plaintiff and other aggrieved employees, Defendants failed to compensate Plaintiff and other
16 aggrieved employees with the required meal period premium for each workday in which they
17 experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and
18 belief, during at least a portion of the relevant time period, Defendants maintained no payroll code
19 or other mechanism for paying meal period premiums under Labor Code § 226.7 in the event a
20 legally compliant meal period was not provided to their non-exempt employees

21 14. Plaintiff and other aggrieved employees were also not authorized and permitted to
22 take all legally required and compliant rest periods because Defendants failed to provide at least
23 10 minutes of net rest in an area appropriate for rest away from the workstation. Specifically, as
24 a result of the work demands imposed by Defendants, Defendants did not authorize and permit
25 one rest period for every four hours worked, or major fraction thereof, as non-exempt employees
26 were often working up in a tree and unable to take a rest period. Despite failing to authorize and
27 permit Plaintiff and other aggrieved employees to take all rest periods to which they are entitled,
28 upon information and belief, during at least a portion of the relevant time period, Defendants

maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7 and did not pay Plaintiff or other non-exempt employees any rest period premiums.

15. During Plaintiff's employment with Defendants, Plaintiff and other aggrieved employees were required to use their personal cellular phones to communicate with other employees, managers/supervisors, and/or clients. Plaintiff and other aggrieved employees were also required to provide their own safety boots. Defendants knew or should have known that Plaintiff and other aggrieved employees were necessarily incurring expenses due to the use of their personal cellular phones and safety boots. Yet, despite the necessity of Plaintiff and other aggrieved employees using their personal cellular phones and safety boots for work activities and Defendants knowing or should have knowing about the same, Defendants failed to reimburse Plaintiff and other aggrieved employees for these necessary business expenditures.

16. As a result of Defendants' failure to compensate Plaintiff and other aggrieved employees for all minimum and overtime wages, and all meal and rest period premium wages, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements.

17. As a further result of Defendants' failure to pay all minimum and overtime wages, and failure to pay all meal and rest period premium wages, Defendants failed to pay all wages to Plaintiff and other formerly employed non-exempt employees at the separation of their employment.

18. Based on the foregoing, Plaintiff seeks to represent himself and other aggrieved employees, as defined by Labor Code § 2699(c), who have been aggrieved by the Labor Code violations discussed herein.

FIRST CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

19. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

20. Defendants have committed several Labor Code violations against Plaintiff and

1 other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor
2 Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this
3 representative action against Defendants to recover the civil penalties due to Plaintiff, other
4 aggrieved employees, and the State of California according to proof, including, but not limited
5 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for
6 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for
7 each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
8 each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
9 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
10 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
11 initial violation; and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
12 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each
13 subsequent violation per employee per pay period for those violations of the Labor Code for
14 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 15 a. Failing to pay the statutory minimum wages for all hours worked to Plaintiff and
16 other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2,
17 1197, and 1198;
- 18 b. Failing to pay Plaintiff and other aggrieved employees all earned overtime
19 compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 20 c. Failing to provide all legally required meal periods, or to pay premium pay in lieu
21 thereof, to Plaintiff and other aggrieved employees at the regular rate of pay in
22 violation of Labor Code §§ 226.7, 512, 558, and 1198;
- 23 d. Failing to authorize and permit all legally required rest periods, or to pay premium
24 pay in lieu thereof, to Plaintiff and other aggrieved employees at the regular rate
25 of pay in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 26 e. Failing to reimburse Plaintiff and other aggrieved employees for all necessary
27 business expenses in violation of Labor Code §§ 2802 and 2804;
- 28 f. Failing to furnish Plaintiff and other aggrieved employees with complete,

- 1 accurate, itemized wage statements in violation of Labor Code § 226 and 1174(d);
- 2 g. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees
- 3 in violation of Labor Code §§ 201, 202, and 203;
- 4 h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
- 5 twice during each calendar month in violation of Labor Code § 204; and
- 6 i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
- 7 employees in violation of Labor Code §§ 1174 and 1198.

8 21. On or about October 16, 2024, Plaintiff notified Defendant The F. A. Bartlett Tree

9 Expert Company via certified mail, and the California Labor and Workforce Development

10 Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and

11 Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.*

12 with respect to violations of the California Labor Code identified in Paragraph 20 (a)-(i). Now

13 that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff

14 has exhausted his administrative requirements for bringing a claim under the Private Attorneys

15 General Act with respect to these violations.

16 22. Plaintiff was compelled to retain the services of counsel to file this court action to

17 protect his interests and the interests of other aggrieved employees, and to assess and collect the

18 civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which

19 he is entitled to receive under California Labor Code § 2699.

20 **PRAYER**

21 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf

22 this suit is brought against Defendants, jointly and severally, as follows:

23 1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other aggrieved

24 employees, and the State of California according to proof pursuant to Labor Code §§ 558 and

25 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure

26 to pay each employee and \$200 for each subsequent violation or willful or intentional violation

27 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount

28 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 those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations identified in Paragraph 20 (a)-(i);

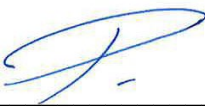
2. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 2699(g) and Code of Civil Procedure § 1021.5; and

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

Dated: December 23, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

By:




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Attorneys for Plaintiff