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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

JAMES MORFIN, as an individual and on
behalf of other aggrieved employees,

Plaintiff,

v.

THE YERBA MATE CO., LLC, a limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **24CV103245**

REPRESENTATIVE ACTION

**COMPLAINT FOR PENALTIES AND
INJUNCTIVE RELIEF FOR
VIOLATION OF LABOR CODE
SECTION 2698 *et seq.***

1 Plaintiff James Morfin (“Plaintiff”) hereby submits his Complaint for Penalties and
2 Injunctive Relief against Defendant The Yerba Mate Co., LLC, and DOES 1 through 50,
3 inclusive (collectively, “Defendants”), on behalf of himself and other current and former
4 aggrieved employees of Defendants for penalties as follows:

5 **INTRODUCTION**

6 1. This representative action is brought pursuant to Labor Code § 2698 *et seq.* (the
7 Private Attorneys General Act of 2004 (“PAGA”)) for Defendants’ violations of Labor Code
8 §§ 201-204, 226, 226.7, 510, 512, 1194, and Industrial Welfare Commission (“IWC”) Wage
9 Order 1-2001.

10 2. This Complaint challenges Defendants’ systemic illegal employment practices
11 resulting in violations of the stated provisions of the Labor Code against the identified
12 aggrieved employees.

13 3. Plaintiff is informed and believes and thereon alleges Defendants joint and
14 severally acted intentionally and with deliberate indifference and conscious disregard to the
15 rights of all employees in (1) failing to provide meal periods and rest breaks, (2) failing to pay
16 all minimum and overtime wages, (3) failing to provide accurate wage statements, (4) failing to
17 reimburse necessary work-related expenses, (5) failing to provide accurate wage statements,
18 and (6) failing to pay all wages due and owing upon termination of employment.

19 **JURISDICTION AND VENUE**

20 4. This representative action is brought pursuant to PAGA. The monetary penalties
21 sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be
22 established according to proof at trial. The penalties sought by Plaintiff individually are less
23 than \$75,000.00.

24 5. This Court has jurisdiction over this action pursuant to California Constitution,
25 Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes
26 except those given by statute to other courts. The statutes under which this action is brought do
27 not specify any other basis for jurisdiction.

28 6. This Court has jurisdiction over the violations of Labor Code §§ 201-204, 226,

226.7, 510, 512, 1194, PAGA, and the Wage Order.

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

8. Venue is proper in this Court because, upon information and belief, the named Defendants transact business and/or have offices in this county, and the acts and omissions alleged herein took place in this county.

PARTIES

9. Plaintiff is an individual residing in the State of California. Plaintiff was employed by Defendants within the statutory time period.

10. Plaintiff is informed and believes and thereon alleges that Defendant The Yerba Mate Co., LLC is a limited liability company licensed to do business and actually doing business in the State of California, including the County of Alameda.

11. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges that each of Defendants designated as a DOE was responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and the aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

12. At all times herein mentioned, Defendants, and each of them, were agents, partners, joint venturers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, representatives, servants, employees, successors, co-conspirators and assigns, and that all acts or omissions alleged herein were duly committed with ratification, knowledge, permission, encouragement,

1 authorization and consent of each Defendant designated herein.

2 **13.** As such, and based upon all the facts and circumstances incident to Defendants’
3 business in California, Defendants are subject to Labor Code §§ 201-204, 226, 226.7, 510, 512,
4 1194, PAGA, and the Wage Order.

5 **CAUSE OF ACTION**

6 **FOR VIOLATION OF PAGA**

7 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF ALL AGGRIEVED**
8 **EMPLOYEES)**

9 **14.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 13 as
10 though fully set forth herein.

11 **15.** 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.

16 **16.** On October 10, 2024, Plaintiff provided written notice to the LWDA and
17 Defendants of the specific provisions of the Labor Code he contends were violated, and the
18 facts and theories supporting his contentions. To date, he has not received a response.

19 **17.** Plaintiff and the other non-exempt employees are “aggrieved employees” as
20 defined by California Labor Code § 2699(c) in that they are all current or former employees of
21 Defendants, and one or more of the alleged violations was committed against them.

22 **Failure to Pay Minimum and Overtime Wages**

23 **18.** At all times relevant herein, Defendants were required to compensate their non-
24 exempt employees minimum wages for all hours worked and overtime wages for all hours
25 worked in excess of eight (8) hours in a workday and forty (40) hours in a workweek, as well
26 as overtime wages for hours worked on the seventh consecutive day in a workweek, pursuant
27 to the mandate of Labor Code §§ 510, 1194, 1197, 1197.1, and 1198.

28 **19.** During the relevant time period, Defendants regularly failed to compensate

1 Plaintiff and other aggrieved employees for all hours worked, and overtime wages at the
2 correct rate of pay. In particular, Defendants failed to compensate Plaintiff and other aggrieved
3 employees for recorded overtime hours that were over budget by either reallocating overtime
4 hours worked to other workdays or deleting/removing (commonly known as time shaving) the
5 overtime hours worked from Plaintiff's and other aggrieved employees' time records.
6 Defendants also failed to compensate employees for time spent working through recorded
7 lunches, despite actual or constructive knowledge via Defendants' own records that employees
8 were working through meals. Defendants further failed to use the correct regular rate of pay for
9 purposes of overtime calculations because they failed to properly include all wages, such as
10 earned nondiscretionary incentives, in the regular rate calculation.

11 **Failure to Provide Meal Periods and Rest Breaks**

12 **20.** In accordance with the mandates of the California Labor Code and the
13 applicable IWC Wage Order, Plaintiff and other aggrieved employees had the right to take a
14 10-minute rest break for every four (4) hours worked or major fraction thereof, and a 30-
15 minute meal period for every five (5) hours worked.

16 **21.** As a pattern and practice, Defendants failed to actively relieve Plaintiff and
17 other aggrieved employees of duty for meal periods and rest breaks, and failed to pay meal
18 period and rest break premium wages. Defendants also maintained an unlawful written rest
19 break policy.

20 **Failure to Reimburse Necessary Work-Related Expenses**

21 **22.** Labor Code section 2802 requires employers to reimburse employees for
22 necessary work-related expenses.

23 **23.** During the relevant time period, Defendant failed to reimburse Plaintiff and
24 other aggrieved employees for business expenses, including, but not limited to the use of
25 personal mobile phones for business purposes.

26 **Failure to Timely Pay Wages During Employment and Upon Termination**

27 **24.** At all times relevant herein, Defendants were required to pay their employees
28 all wages owed in a timely fashion at the end of employment pursuant to California Labor

Code §§ 201 to 203.

25. Further, Defendants were required to pay their employees all wages owed in a timely fashion during employment, pursuant to the mandate of California Labor Code section 204. Section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

26. As a result of Defendants' Labor Code violations alleged above, Defendants failed to pay Plaintiff and the other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204.

27. As a result of Defendants' Labor Code violations alleged above, Defendants further failed to pay Plaintiff and the other aggrieved former employees their final wages pursuant to Labor Code §§ 201 to 203, and accordingly owe waiting time penalties pursuant to Labor Code § 203.

Failure to Provide Complete and Accurate Wage Statements

28. At all times relevant herein, Defendants were required to keep *accurate* records regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174(d).

29. In violation of Labor Code § 226, Defendants failed in their affirmative obligation to keep *accurate* records for their California employees. For example, as a result of Defendants' various Labor Code violations, Defendants failed to keep accurate records of Plaintiff and other aggrieved employees' gross wages earned, total hours worked, net wages earned, all applicable hourly rates and the number of hours worked at each hourly rate, and the

1 name and address of the legal employer. Plaintiff received at least one such wage statement
2 during his employment with Defendants.

3 **Penalties and Injunctive Relief**

4 **30.** Pursuant to California Labor Code § 2699, Plaintiff, individually and on behalf
5 of other current and former aggrieved employees, requests and is entitled to recover from
6 Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant, as
7 well as all statutory penalties against Defendants, and each of them, including but not limited
8 to:

9 **31.** Penalties under California Labor Code § 2699 in the amount of up to two
10 hundred dollars (\$200) for each aggrieved employee per pay period.

11 **32.** Penalties under California Labor Code § 210 in the amount of a hundred dollars
12 (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred
13 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, plus
14 25% of the amount unlawfully withheld;

15 **33.** Penalties under Labor Code § 226.3 in the amount of two hundred fifty dollars
16 (\$250) per employee per initial violation and one thousand dollars (\$1,000) per employee for
17 each subsequent violation;

18 **34.** Penalties under Labor Code § 558 in the amount of fifty dollars (\$50) for each
19 aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for
20 each aggrieved employee per pay period for each subsequent violation;

21 **35.** Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100)
22 for each aggrieved employee per pay period for the initial violation, and two hundred fifty
23 dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

24 **36.** Any and all additional penalties and sums as provided by the Labor Code and/or
25 other statutes;

26 **37.** An injunction to prohibit Defendants from continuing to engage in the unlawful
27 practices complained of herein; and

28 **38.** Attorneys' fees and costs as permitted by law.

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1. Upon the Cause of Action, for civil penalties pursuant to statute as set forth in Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 216, 225.5, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802, and for costs and attorney's fees;
2. Upon the Cause of Action, for an injunction to prohibit Defendants from continuing to engage in the unlawful practices complained of herein; and
3. On all causes of action for attorneys' fees, interest, and costs as provided by California Labor Code §§ 218.6, 226, 1194, PAGA, and Code of Civil Procedure § 1021.5, and for such other and further relief the Court may deem just and proper.

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