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20 ELOISE MARIE WASHINGTON,
21 and all putative class members

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

23 **COUNTY OF SACRAMENTO**

24 ELOISE MARIE WASHINGTON, an
25 individual, on behalf of herself and all others
26 similarly situated,

27 Plaintiff,

28 vs.

29 QUANEX HOMESHIELD LLC a Delaware
30 limited liability company, and DOES 1-50,
31 inclusive,

32 Defendant.

ELECTRONICALLY FILED

Superior Court of California

County of Sacramento

01/24/2025

By: L. Baldwin Deputy

Case No.: 24CV024013

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Failure to Pay For All Hours Worked,
Including Overtime Hours Worked
2. Failure to Pay All Wages Owed Twice
Per Month
3. Failure to Pay Minimum Wage
4. Failure to Pay Wages Due Upon
Termination
5. Failure to Provide Rest Breaks
6. Failure to Provide Timely Meal
Breaks
7. Failure to Provide Proper Cool-Down
Rest Periods
8. Failure to Provide Accurate Itemized
Wage Statements & Violation of
Record Keeping Requirements
9. Unlawful Business Practices Bus &
Prof. Code §17200
10. Private Attorneys General Act
Penalties (Lab. Code §2699)

1 Plaintiff ELOISE MARIE WASHINGTON, individually, and on behalf of all others
2 similarly situated, all aggrieved employees, and as a Private Attorney General for the State of
3 California (collectively “Plaintiff”), alleges as follows:
4

5 NATURE OF THE ACTION

6 1. This is an employment class and representative action on behalf of over 100 hourly, non-
7 exempt employees against their employer for violations of numerous wage and hour laws. Plaintiff
8 brings this employment class and representative action complaint on behalf of herself, and all
9 others similarly situated, all aggrieved employees, and as a Private Attorney General for the State
10 of California against QUANEX HOMESHIELD LLC and DOES 1-50, inclusive, (hereafter
11 collectively “Defendant” or “Defendants”).

12 2. Defendant QUANEX HOMESHIELD LLC manufactures window and door
13 components and other building products, doing business in California. Plaintiff ELOISE MARIE
14 WASHINGTON worked for Defendant in its shipping and packaging department on an hourly,
15 non-exempt basis until January 2024. Plaintiff and the proposed class earn at or near minimum
16 wage.

17 3. As described further below, Defendant has violated the California Labor Code by (1)
18 failing to pay for all hours worked, including overtime hours worked (§218, 510, 558, 1194, 1197,
19 1198, 1199, Wage Order 1); (2) failing to pay all wages owed twice per month (§204, 210); (3)
20 failing to pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199);
21 (4) failing to pay wages due upon termination (§201, 202, 203); (5) failing to provide rest breaks
22 (§226, 226.7, 512, 558, 1198); (6) failing to provide timely meal breaks (§226, 226.7, 512, 558,
23 1198); (7) failing to provide proper cool-down rest periods (§226.7, 1198); (8) failing to provide
24 accurate itemized wage statements and violating record keeping requirements (§226, 246, 248,
25 1174, 1174.5); (9) unlawful and unfair business practices (Bus. & Prof. Code §17200, *et. seq.*) and
26 (8) penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 et seq.
27 Attorney General Act (“PAGA”), Labor Code §2698 et seq.
28

1 4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”)
2 §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period
3 penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and
4 reasonable attorneys’ fees and costs. Pursuant to the class and representative action procedures
5 provided for under California law, Plaintiff, on behalf of herself, proposed Class Members and
6 aggrieved employees (also referred to as “Class”), also seeks injunctive relief and restitution of all
7 benefits Defendant has received from their unlawful actions as alleged herein. Plaintiff has also
8 provided notice of these claims pursuant to §2698 *et. seq.*, to the Labor and Workforce and
9 Development Agency (“LWDA”) and now brings this First Amended Complaint, including claims
10 for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*
11 Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*

12 5. The “Class Period” is designated as the four-year period prior to the filing of this
13 Complaint through the date of the final disposition of this action. From the start of the Class Period
14 through the present, Defendant has had a policy and/or practice of among other violations: late
15 and/or interrupted meal breaks, untimely and/or interrupted rest breaks, issuing inaccurate wage
16 statements, and ignoring and violating California wage and hour laws, in their business as more
17 fully set forth below.

18 6. The “PAGA Period” is defined herein commences one year prior to the date of filing the
19 PAGA Notice letter with the LWDA.

20 7. Defendant has treated all persons employed in California in such a way as to violate
21 California’s laws governing conditions of employment and payment of wages owed. Plaintiff
22 asserts that Defendant has knowingly and with conscious disregard of the law refused to pay the
23 Class Members and aggrieved employees all wages owed, including overtime wages and meal and
24 rest break penalty wages. Defendant has violated numerous Labor Code provisions, as set forth
25 herein. Class Members and aggrieved employees are owed their back pay, plus interest and/or
26 premiums and penalties under Business and Professions Code section 17203 to compensate Class
27 Members and aggrieved employees for the delay in receiving wages due.
28

1 8. Defendant, by and through their actions, has engaged in unfair competition, requiring
2 restitution to persons affected and disgorgement of profits so obtained.

3 THE PARTIES

4 9. Plaintiff ELOISE MARIE WASHINGTON is an individual who resides in California
5 and worked for Defendant in its shipping and packaging department on an hourly, non-exempt
6 basis until January 2024.

7 10. Defendant QUANEX HOMESHIELD LLC is a Delaware limited liability company
8 doing business in California with the capacity to sue and to be sued and doing business, in
9 Sacramento County, State of California. Defendant exercised control over the wages, hours, and/or
10 working conditions of Plaintiff and members of the proposed class throughout the liability period.

11 11. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true
12 names and capacities are unknown to Plaintiff. When their true names and capacities are
13 ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein.
14 Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant
15 is responsible in some manner for the occurrences herein alleged, and that the damages sustained
16 by Plaintiff, Class Members and aggrieved employees herein alleged were proximately caused by
17 such Doe Defendants.

18 12. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
19 indirectly, or through agents or other persons, employed Plaintiff and other members of the Class,
20 and exercised control over their wages, hours, and working conditions. Plaintiff is informed and
21 believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the
22 agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects
23 pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

24 JURISDICTION AND VENUE

25 13. Venue is proper in this judicial district because Defendant conducts business in this
26 County and Defendant has legal obligations to Plaintiff and many of the Class Members and
27 aggrieved employees in this case that arose in this county.
28

1 14. The monetary damages, restitution, and statutory penalties sought by Plaintiff exceed
2 the minimal jurisdictional limits of the Superior Court and will be established according to proof
3 at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in
4 controversy, including claims for monetary damages, penalties, and attorney's fees, is more than
5 twenty-five thousand dollars (\$25,000) and less than five million dollars (\$5,000,000).

6 15. The California Superior Court has jurisdiction in this matter because Plaintiff is a
7 resident of California and Defendant is incorporated in and/or qualified to do business in California
8 and regularly conduct business in California. Further, there is no federal question at issue as the
9 claims herein are based solely on California law.

10 **CLASS AND REPRESENTATIVE ACTION ALLEGATIONS**

11 16. During the Class and PAGA Period, Defendant committed various violations of the
12 California Labor Code, the UCL and the applicable IWC Wage Order, as alleged below in more
13 detail. Defendant enforces multiple policies that violate state law which are intended to increase its
14 own profits to the detriment of its employees.

15 17. Defendant on occasions subject to proof failed to properly calculate and pay overtime
16 compensation. Defendant failed to provide a compliant time recording where employees could
17 clock in and out of their shifts to properly record the hours they worked. Instead, Defendant told
18 Plaintiff and her coworkers what job site to report to and paid them from scheduled shift start and
19 end times. Defendant has also failed to pay the required minimum wage for all hours worked and
20 have failed to pay all wages owed twice per month.

21 18. Defendant failed to (1) pay for all hours worked, including overtime hours worked
22 (§218, 510, 558, 1194, 1197, 1198, 1199, Wage Order 1); (2) pay all wages owed twice per month
23 (§204, 210); (3) pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198,
24 1199); (4) pay wages due upon termination (§201, 202, 203); (5) provide rest breaks (§226, 226.7,
25 512, 558, 1198); (6) provide timely meal breaks (§226, 226.7, 512, 558, 1198); (7) provide proper
26 cool-down rest periods (§226.7, 1198); (8) provide accurate itemized wage statements and violating
27 record keeping requirements (§226, 246, 248, 1174, 1174.5). These practices also constitute
28 unlawful and unfair business practices. These policies and practices have deprived Plaintiff, Class

Members, and Aggrieved Employees of payment for all hours worked, and further damages, as set forth below, and render Defendant liable for damages, including penalties under PAGA.

19. Failure to pay for all hours worked, including overtime. Defendant on occasions subject to proof failed to pay all wages owed twice per month.

20. Failure to pay minimum wage. Defendant on occasions subject to proof failed to pay a minimum wage.

21. Failure to pay wages owed upon termination. Defendant on occasions subject to proof to pay all wages owed upon termination.

22. Rest Breaks. Defendant on occasions subject to proof failed to maintain a policy and practice that provides its employees with off-duty rest periods as required by California law.

23. Meal Breaks. Defendant on occasions subject to proof failed to maintain a policy and practice that provides its employees with timely meal breaks as required by California law.

24. Cool-Down Rest Periods. Defendant on occasions subject to proof failed to provide proper cool-down rest periods.

25. Failure to pay sick pay and suitable seating. Defendant on occasions subject to proof engaged in numerous unlawful, unfair business practices, including failure to properly accrue and pay sick pay wages, and failure to provide suitable seating.

26. Inaccurate Wage Statements Defendant failed to consistently provide timely, accurate, itemized wage statements to employees, as well as maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

27. Unfair Business Practices. Based upon the above allegations, Defendant from time to time engaged in unfair competition.

28. Plaintiff brings this action on behalf of herself, and all other persons similarly situated, to recover from Defendant for failure to comply with California wage and hour laws, and for claims under Business and Professions Code § 17200.

29. This action has been brought and may properly be maintained as a class action pursuant to the provisions of Code of Civil Procedure § 382 because the proposed class is ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 100

employees who have been similarly injured by Defendant's unlawful employment policies and practices.

30. The "Relevant Time Period" or proposed "Class Period" as defined herein commences four years prior to the date of filing this Complaint, as limited by any prior class action settlement release period, if any.

31. The "PAGA Period" is defined herein commences one year prior to the date of filing the PAGA Notice letter with the LWDA.

32. The PAGA Class, also referred to herein as "aggrieved employees": "All current and former hourly, non-exempt employees of Defendant in California, at any time from one year prior to the filing of the PAGA Notice letter with the LWDA until the resolution of this matter." Plaintiff reserves the right to amend or modify the definition of aggrieved employees with respect to the issues or in any other way.

33. Plaintiff brings this action on her behalf and as a class action under Cal. Code of Civil Procedure §382 on behalf of the following defined groups:

34. Proposed Class: All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations.

35. Proposed Sub-classes are defined as follows:

- A. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shift in excess of five (5) hours.
- B. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of six (6) hours.
- C. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of eight (8) hours.

1 D. All persons who are employed or have been employed by Defendant in the State
2 of California as hourly, non-exempt workers during the period of the relevant
3 statute of limitations, who worked one or more shifts in excess of three and one-
4 half hours (3 ½), but less than or equal to six (6) hours.

5 E. All persons who are employed or have been employed by Defendant in the State
6 of California as hourly, non-exempt workers during the period of the relevant
7 statute of limitations, who worked one or more shifts in excess of six (6) hours,
8 but less than or equal to ten (10) hours.

9 F. All persons who are employed or have been employed by Defendant in the State
10 of California as hourly, non-exempt workers during the period of the relevant
11 statute of limitations, who were paid sick pay.

12 G. All persons who are employed or have been employed by Defendant in the State
13 of California as hourly, non-exempt workers during the period of the relevant
14 statute of limitations, who separated their employment from Defendant.

15 H. All persons who are employed or have been employed by Defendant in the State
16 of California as hourly, non-exempt workers during the period of the relevant
17 statute of limitations, who received pay for one or more pay periods.

18 36. This action is brought, and may properly be maintained, as a class action under CCP
19 §382 and/or a representative action under Business & Professions Code §§17200 et seq. and Labor
20 Code §2699 because there is a well-defined community of interest in the litigation, and the
21 proposed Class, PAGA Class, and Subclasses (collectively “Class”) are easily ascertainable.

22 37. Numerosity: The Proposed Class is so numerous that joinder of all members is
23 impractical. Plaintiff is informed and believes, and on that basis alleges, that during the relevant
24 time period, Defendant employed over 100 putative Class Members who are geographically
25 dispersed and who satisfy the definition of the proposed Class. As such, a class action is the only
26 available method for the fair and efficient adjudication of this controversy. Membership in the
27 Proposed Class can be easily ascertained by an examination and analysis of employee and payroll
28 records, among other records within Defendant’s possession and control.

1 38. Typicality: Plaintiff's claims are typical of the claims of the Class Members. Plaintiff,
2 like others similarly situated, was subjected to Defendant's common, unlawful policies, practices,
3 and procedures described above. The Plaintiff's positions at the company was typical of those of
4 other Class Members. Plaintiff's claims are typical of the claims of each Class Member because
5 each have sustained damages arising out of and caused by Defendant's common course of conduct,
6 as alleged herein. As such, Plaintiff has the same interests in this matter as all members of the
7 Class.

8 39. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
9 the Class. Plaintiff has retained counsel competent and experienced in complex class actions and
10 California labor and employment litigation.

11 40. Commonality: Common questions of law and fact exist, including but not limited to
12 the following:

- 13 i. Whether Defendant violated wage and hour laws by failing to pay overtime
14 wages;
- 15 ii. Whether Defendant violated wage and hour laws by failing to pay all wages
16 due twice per month;
- 17 iii. Whether Defendant violated wage and hour laws by failing to pay minimum
18 wage;
- 19 iv. Whether Defendant violated wage and hour laws by failing to pay all wages
20 due upon termination;
- 21 v. Whether Defendant violated wage and hour laws by failing to provide rest
22 breaks;
- 23 vi. Whether Defendant's policy and practice concerning rest breaks was
24 unlawful;
- 25 vii. Whether Defendant violated wage and hour laws by failing to provide
26 uninterrupted meal breaks;
- 27 viii. Whether Defendant's policy and practice concerning meal breaks was
28 unlawful;

- ix. Whether Defendant violated wage and hour laws by failing to proper cool-down rest periods;
- x. Whether Defendant unlawfully failed to keep and furnish Class Members with accurate, itemized records of hours worked, in violation of Labor Code §§ 226 and 1174;
- xi. The proper measure of damages sustained and the proper measure of restitution recoverable by Plaintiff, the Class Members, and Subclass Members;
- xii. Whether the Class Members are entitled to injunctive relief to enjoin any further violations of wage and labor laws;
- xiii. Whether Defendant, and each of them, are/were participants in the alleged unlawful and/or tortious conduct;
- xiv. Whether Defendant's conduct was willful and reckless;
- xv. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff Class and the appropriate amount of reimbursement, restitution, damages, or other compensation; and
- xvi. What is the extent of liability of each Defendant, including DOE defendants, to each Class and Subclass member?

41. Superiority: A class action is superior to other available methods of the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where the damage suffered by individual plaintiffs, while not inconsequential, makes individual actions impracticable given the expenses and burdens associated with seeking individual relief. Prosecuting over 100 identical, individual lawsuits does not promote judicial efficiency or equity and consistency in judicial results. Moreover, the Class is a group of hourly, low-wage earning employees who rely on their wages and requiring that each individual take time away from work to prosecute individual actions would be inequitable and result in undue hardship for the individual Class members and their families. Public policy favors efficient resolution of their claims and

uniform enforcement of California Labor laws against entities skirting their legal obligations at the expense of a vulnerable working population.

42. Manageability: Plaintiff is informed and believes that all allegations in this Complaint are capable of being determined on the same evidence and based primarily on review of corporate records and key testimony of Defendant's corporate representatives. To the extent statistical analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ competent experts and consultants in the field to determine and review evidence for both issues of liability and damages in a scientifically reliable manner.

43. Plaintiff requests, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California Rules of Court, that the absent Class and Subclass Members be notified by the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The names and address of the Class and Subclass Members are available from Defendant.

FIRST CAUSE OF ACTION

FAILURE TO PAY FOR ALL HOURS WORKED, INCLUDING OVERTIME HOURS WORKED

Cal. Labor Code §§ 218, 510, 558, 1194, 1197, 1198, 1199, Wage Order 1

(Plaintiff Against All Defendants)

44. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

45. Defendant's conduct described in this complaint from time to time violates the provisions of Labor Code §§ 218, 510, 558, 1194, 1197, 1198, 1199, Wage Order 1.

46. The Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so." Defendant has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below. Defendant has also failed to pay

1 the required minimum wage for all hours worked and have failed to pay all wages owed twice per
2 month.

3 47. Plaintiff, Class Members and aggrieved employees on occasions subject to proof have
4 been employed under conditions prohibited by the wage order, and thus Defendant has also
5 violated §§1198 and 1199.

6 48. Off-the-Clock Hours Worked – Waiting in Required Lines. Plaintiff, Class Members
7 and aggrieved employees frequently worked off the clock and were routinely subjected to periods
8 wherein they were under the Defendant's control but not compensated for their time. Numerous
9 employees came on shift at the same time which resulted in many employees waiting in required
10 lines to clock in for work to use the timeclock. Plaintiff recalls waiting up to five minutes each
11 time Plaintiff and Plaintiff's coworkers were required to wait in line to clock in our out. This time
12 spent walking and waiting in required lines was required by Defendant prior to each shift and when
13 clocking back in for lunch and was essential and required before employees could begin and/or
14 resume working on the clock.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PAY ALL WAGES OWED TWICE PER MONTH**

17 Cal. Labor Code §§ 204, 210

18 (Plaintiff Against All Defendants)

19 49. Plaintiff incorporates by reference in this cause of action each allegation of the
20 preceding paragraphs as though fully set forth herein.

21 50. Defendant's conduct described in this complaint from time to time violates the
22 provisions of Labor Code §§ 204, 210.

23 51. Defendant was required to pay Plaintiff, Class Members and aggrieved employees all
24 wages earned twice during each calendar month pursuant to Labor Code §204(a).

25 52. Defendant on occasions subject to proof failed to pay all wages earned to employees
26 as a result of the unlawful employment policies and practices discussed herein. As a result of these
27 practices, employees were underpaid for hours worked, including overtime and penalty wages, and
28 this underpayment resulted in a failure to pay all wages owed twice per month.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGE**

3 Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199

4 **(Plaintiff Against All Defendants)**

5 53. Plaintiff incorporates by reference in this cause of action each allegation of the
6 preceding paragraphs as though fully set forth herein.

7 54. Defendant's conduct on occasions subject to proof described in this complaint from
8 time to time violates the provisions of Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197,
9 1197.2, 1198, 1199.

10 55. Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer
11 to suffer or permit a California employee to work without paying wages at the proper minimum
12 wage for all time worked as required by the applicable IWC Wage Order.

13 56. Defendant failed to pay Plaintiff, Class Members and aggrieved employees for all hours
14 worked as a result of Defendant's practices described herein. Based on Defendant's unlawful
15 conduct described herein, and because Plaintiff, Class Members and aggrieved employees were
16 paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime,
17 resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor
18 Code §1197, 1197.1, 1199 and the Wage Orders.

19 **FOURTH CAUSE OF ACTION**

20 **FAILURE TO PAY WAGES DUE UPON TERMINATION**

21 Cal. Labor Code §§ 201, 202, 203

22 **(Plaintiff Against All Defendants)**

23 57. Plaintiff incorporates by reference in this cause of action each allegation of the
24 preceding paragraphs as though fully set forth herein.

25 58. Defendant's conduct described in this complaint from time to time violates the
26 provisions of Labor Code §§ 201, 202, 203.

27 59. An employee who is discharged must be paid all of his or her wages, including accrued
28 vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set

1 forth above, Defendant knowingly and willfully failed to pay all compensation due and owing to
2 Plaintiff at the time employment terminated.

3 60. Defendant willfully failed to pay employees who are no longer employed by it all
4 compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.
5 Plaintiff and similarly situated individuals are now entitled to recover up to thirty (30) days pay as
6 waiting time under the terms of §203.

7 ///

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10 **FIFTH CAUSE OF ACTION**
11 **FAILURE TO PROVIDE REST BREAKS**

12 Cal. Labor Code §§ 226, 226.7, 512, 558

13 (Plaintiff Against All Defendants)

14 61. Plaintiff incorporates by reference in this cause of action each allegation of the
15 preceding paragraphs as though fully set forth herein.

16 62. Defendant's conduct described in this complaint from time to time violates the
17 provisions of Labor Code §§ 226, 226.7, 512, 558.

18 63. Defendant failed to maintain a compliant rest period policy and practice that provides
19 its employees with off-duty rest periods as required by California law.

20 64. Plaintiff reports that she and her coworkers always experienced shortened rest periods
21 due to the walk due to the walk time of at least two minutes each way spent from their work areas
22 to the break facility and back, resulting in a break of less than 10 minutes.

23 65. Rest periods were either less than ten minutes, not provided, interrupted or late, "on
24 duty," or not scheduled before and after a meal period for shifts greater than six hours, as
25 prescribed by California law because Defendant: (1) did not account for all hours worked that were
26 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
27 rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately
28 inform and train employees about when, where and how to take timely and uninterrupted ten-

1 minute rest breaks; (4) because Defendant did not staff enough people to schedule all timely and
2 uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting
3 all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest
4 break policy.

5 66. The rest period requirement obligates employers to permit and authorize employees to
6 take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish
7 control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5
8 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's
9 regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted
10 rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC
11 Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance
12 with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of
13 pay at the employee's regular rate of compensation for each work day that the rest period is not
14 provided"). Moreover, under California law rest periods must be a "net" ten minutes in a suitable
15 rest area. (*Id.* at 268) (relying on January 3, 1986, and February 22, 2002, DLSE Letters wherein
16 the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a
17 rest area and cannot include time it takes to get to and from the rest area). The employer must show
18 that it clearly articulates the right to a net ten minutes, which means it must clearly communicate
19 what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest
20 area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; *see also*, *Bufile v.*
21 *Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to
22 clearly communicate the authorization and permission [to take rest periods] to their employees.").

23 67. Defendant did not authorize or permit all of its hourly employees to take at least a ten-
24 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
25 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks
26 were missed Defendant failed to pay the 1-hour penalty, as required. Because Defendant violated
27 the Wage Order, Defendant is liable under Labor Code §1198.

1 68. Rest break – Walk time. Rest breaks were consistently under 10 minutes because
2 employees were required to return back to their workstations within 10 minutes. However, the
3 break facility was located 2-3 minutes from the work areas, significantly cutting into the
4 employees' required 10-minute break. As a result, Plaintiff, Class Members and aggrieved
5 employees were, from time to time, denied the full 10 minute uninterrupted break.

6 **SIXTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE TIMELY MEAL BREAKS**

8 Cal. Labor Code §§ 226, 226.7, 512, 558, 1198

9 (Plaintiff Against All Defendants)

10 69. Plaintiff incorporates by reference in this cause of action each allegation of the
11 preceding paragraphs as though fully set forth herein.

12 70. Defendant's conduct described in this complaint from time to time violates the
13 provisions of Labor Code §§ 226, 226.7, 512, 558, 1198.

14 71. Labor Code §512 provides, "[a]n employer may not employ an employee for a work
15 period of more than five hours per day without providing the employee with a meal period of not
16 less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee
17 to work during any meal... period mandated by an applicable order of the Industrial Welfare
18 Commission." Paragraph 11 of the Wage Order provides, in pertinent part, "[u]nless an employee
19 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on
20 duty' meal period and counted as time worked."

21 72. Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of
22 "not less than 30 minutes" for each five consecutive hours of work in violation of Labor Code
23 §§226.7 and 512. Defendant failed to pay all penalty pay to Plaintiff or class members for
24 noncompliant meal periods. As a derivative claim, Plaintiff alleges that pay statements were on
25 those occasions inaccurate, failing to include required meal period penalties, thus failing to meet
26 the requirements of Labor Code §226(a).

27 73. Plaintiff and her coworkers were notified of their meal periods by a bell system,
28 however they were required to clock back in from lunch. Due to the time spent walking and waiting

1 in line to clock in and out for their meals, Plaintiff and her coworkers often experienced short meal
2 periods.

3 74. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because
4 Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard;
5 (2) did not adequately inform and train employees about their rights to meal periods and premium
6 payments for non-compliant meal periods; (3) did not adequately inform and train employees about
7 when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because
8 Defendant did not staff enough people to schedule all timely and uninterrupted thirty-minute meal
9 periods; (5) because management at various levels, affecting all hourly, non-exempt employees,
10 refused to offer, permit, or enforce a lawfully compliant meal period policy; and/or (6) because
11 Defendant unlawfully shaved and/or rounded clock in and clock out times for meal periods.
12 Employees were not paid a premium payment, paid as an hour's wage when meal periods were
13 not given to them in compliance with California law.

14 **SEVENTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE PROPER COOL-DOWN REST PERIODS**

16 Cal. Labor Code §§ 226.7, 1198

17 (Plaintiff Against All Defendants)

18 75. Plaintiff incorporates by reference in this cause of action each allegation of the
19 preceding paragraphs as though fully set forth herein.

20 76. Defendant's conduct described in this complaint from time to time violates the
21 provisions of Labor Code §§ 226.7, 1198.

22 77. Labor Code section 226.7, subdivision (c) provides:

23 A. If an employer fails to provide an employee a... recovery period in
24 accordance with a state ., law, including, but not limited to an applicable statute
25 or applicable regulation, standard, or order of the Occupational Safety and
26 Health Standards Board, or the Division of Occupational Safety and Health, the
27 employer shall pay the employee one additional hour of pay at the employee's
28

regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

78. Defendant required Plaintiff, Class Members and aggrieved employees to consistently work in temperatures far exceeding eighty (80) degrees Fahrenheit and did not provide adequate cool down period opportunities.

79. Since the resting facility was a 2-3 minute walk from the employees' work area and the Defendant failed to provide any seating in the work area, there was no opportunity to be able to cool down. Plaintiff, Class Members and aggrieved employees did not feel safe asking to take a moment of rest if they felt like they were going to pass out from the heat because of intimidation and pressure from Defendant.

80. Plaintiff, Class Members and aggrieved employees were exposed to a high risk of suffering heat illness so that their life, safety, and health were jeopardized by Defendant's conduct, violating California Code of Regulation, Title, section 3395 and Labor Code sections 226.7 and 1198.

EIGHTH CAUSE OF ACTION

PAYSTUB AND RECORD KEEPING VIOLATIONS

Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5

(Plaintiff Against All Defendants)

81. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

82. Defendant's conduct described in this complaint from time to time violates the provisions of Labor Code §§ 226, 246, 248, 1174, 1174.5.

83. Defendant knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff, Class Members and aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d).

84. §226 (a) requires:

A. An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check,

1 draft, or voucher paying the employee's wages, or separately if wages are paid
2 by personal check or cash, an accurate itemized statement in writing showing
3 (1) gross wages earned, (2) total hours worked by the employee, except as
4 provided in subdivision (j), (3) the number of piece-rate units earned and any
5 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
6 deductions, provided that all deductions made on written orders of the employee
7 may be aggregated and shown as one item, (5) net wages earned, (6) the
8 inclusive dates of the period for which the employee is paid, (7) the name of the
9 employee and only the last four digits of his or her social security number or an
10 employee identification number other than a social security number, (8) the
11 name and address of the legal entity that is the employer and, if the employer is
12 a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
13 and address of the legal entity that secured the services of the employer, and (9)
14 all applicable hourly rates in effect during the pay period and the corresponding
15 number of hours worked at each hourly rate by the employee...

16 85. Such failures called injury to Plaintiff and others, by, among other things, impeding
17 them from knowing the total hours worked, and the amount of wages to which they are and were
18 entitled. Defendant knowingly and intentionally failed to accurately itemize the gross wages
19 earned, net wages earned, and total hours worked.

20 86. Finally, Defendant has violated Labor Code §432.5 for forcing Plaintiff, Class
21 Members and aggrieved employees to sign employment-related contracts and documents that
22 contained unlawful terms of employment, including invalid meal period waivers resulting from a
23 noncompliant meal period policy and/or practice.

24 **NINTH CAUSE OF ACTION**

25 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF**

26 California Business and Professions Code section 17200, et seq.

27 **(Plaintiff Against All Defendants)**

1 87. Plaintiff incorporates by reference in this cause of action each allegation of the
2 preceding paragraphs as though fully set forth herein.

3 88. Defendant from time to time knowingly committed, and upon information and belief
4 continue to commit, ongoing unlawful business practices within the meaning of the UCL,
5 including, but not limited to unlawful practices as described in the causes of action articulated
6 above, and hereby incorporated herein.

7 89. At all relevant times, Defendant failed to provide Plaintiff, Class Members and
8 aggrieved employees with suitable seating during their employment as required by section 12 of
9 the applicable Wage Order. Plaintiff and other class members were not provided with seating
10 during shifts in which they worked at positions which would reasonably permit the use of seating,
11 nor was seating provided within a 2-3 minute walk from work areas for necessary breaks.

12 90. Despite there being excessive heat in the facilities, Defendant failed to have adequate
13 climate control and ventilation. Although the Defendant provided some fans in the facility,
14 Plaintiff and her coworkers still worked in the unbearable heat.

15 91. Starting January 1, 2024, Cal. Labor Code §246(e)(4) required employers to provide
16 40 hours of paid sick leave. Defendant failed to properly accrue sick leave hours for Plaintiff and
17 her coworkers.

18 92. Plaintiff lost money and property as a result of Defendant's unlawful business practices
19 described above.

20 93. Pursuant to the UCL, Plaintiff and all Class Members are entitled to restitution of
21 money or property acquired by Defendant by means of such unlawful business practices, in
22 amounts not yet known, but to be ascertained at trial.

23 94. Pursuant to the UCL, Plaintiff, Class Members and aggrieved employees are entitled
24 to injunctive relief against Defendant's ongoing unlawful business practices. If an injunction does
25 not issue enjoining Defendant from engaging in the unlawful business practices described above,
26 Plaintiff and the general public will be irreparably injured.

27 95. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined
28 by this Court, will continue to engage in the unlawful business practices described above in

1 violation of the UCL, in derogation of the rights of Plaintiff, Class Members and aggrieved
2 employees and of the general public.

3 96. Plaintiff's success in this action will result in the enforcement of important rights
4 affecting the public interest by conferring a significant benefit upon the general public.

5 97. Defendant's numerous violations of local and California law, as well as the other
6 statutory and regulatory violations alleged herein, constitute unlawful business actions and
7 practices in violation of Business and Professions Code § 17200, et seq.

8 98. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff, Class Members
9 and aggrieved employees are entitled to restitution of unpaid wages, including overtime, sick pay,
10 and premium wages, among other relief alleged herein, that were withheld and retained by
11 Defendant during a period that commences four years prior to the filing of this action. Plaintiff is
12 further entitled to a permanent injunction requiring Defendant to comply with all provisions of
13 California labor law, including properly paying the lawful rate of pay for all hours worked,
14 properly paying sick pay, providing rest periods to all workers as defined herein, timely paying
15 due wages upon termination, maintaining accurate wages statements and payroll records, in
16 addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5 and
17 other applicable law, and costs.

18 **EIGHTH CAUSE OF ACTION**

19 **STATUTORY PENALTIES PURSUANT TO PRIVATE ATTORNEYS GENERAL ACT,** 20 **LABOR CODE §2698 *et seq.* AGAINST ALL DEFENDANTS**

21 99. Plaintiff incorporate by reference in this cause of action each allegation of the
22 preceding paragraphs as though fully set forth herein.

23 100. Under the Private Attorneys General Act of 2006, Labor Code §§2698-2699.5, an
24 aggrieved employee, on behalf of themselves and other current or former employees, may recover
25 penalties under any provision of the Labor Code that provides for civil penalties. These penalties
26 are in addition to any other relief available under the Labor Code. Plaintiff is aggrieved employees
27 under PAGA.
28

1 101. Defendant failed to provide Plaintiff and aggrieved employees with suitable seating
2 during their employment as required by section 12 of the applicable Wage Order. Plaintiff and
3 other aggrieved employees were not provided with seating during shifts in which they worked at
4 positions which would reasonably permit the use of seating, nor was seating provided within a 2-
5 3 minute walk from work areas for necessary breaks.

6 102. Despite there being excessive heat in the facilities, Defendant failed to have adequate
7 climate control and ventilation. Defendant's workplaces would get unsafely hot. Plaintiff and
8 aggrieved employees were forced to work in incredibly hot rooms reaching temperatures far
9 exceeding eighty (80) degrees.

10 103. Defendant also failed to properly accrue sick leave hours for Plaintiff and her
11 coworkers.

12 104. As set forth above, Defendant has committed numerous violations for which the Labor
13 Code provides for penalties, including violations of all applicable Labor Code provisions set forth
14 in the foregoing causes of action. Labor Code §2699.5 identifies the aforementioned Labor Code
15 provisions as statutes to which §2699.3's procedural requirements must be met before a penalty
16 may be assessed under §2699(f). Plaintiff has complied with the procedural requirements specified
17 in §2699.3 by providing written notice to the Defendant and the Labor & Workforce Development
18 Agency ("LWDA"). See Exhibit 1 attached hereto, which is a true and correct copy of the Notice
19 correspondence showing compliance with §2699.3. No notice of intent to investigate the alleged
20 violations was provided within the statutory period. Consequently, Plaintiff has exhausted
21 administrative remedies, and on behalf of themselves and all other aggrieved current and former
22 employees of Defendant. Plaintiff, therefore, now pursue this cause of action as permitted by
23 §2698, et seq.

24 105. Enforcement of statutory provisions enacted to protect workers and to ensure proper
25 and prompt payment of wages due to employees is a fundamental public interest in California.
26 Consequently, Plaintiff's success in this action will result in the enforcement of important rights
27 affecting the public interest and will confer a significant benefit upon the general public. Private
28 enforcement of the rights enumerated herein is necessary, as no public agency has pursued

1 enforcement. Plaintiff has incurred a financial burden in pursuing this action and it would be against
2 the interests of justice to require payment of attorneys' fees and costs from any recover that might
3 be obtained herein, pursuant to, inter alia, Labor Code §§2698, *et seq.*, and Code of Civil Procedure
4 §1021.5

5 106. In addition, if Plaintiff succeeds in enforcing these rights affecting the public interest,
6 then attorneys' fees may be awarded to Plaintiff and against Defendant under Code of Civil
7 Procedure §1021.5 and other applicable law in part, because:

8 107. A successful outcome in this action will result in the enforcement of important rights
9 affecting the public interest by requiring Defendant's to comply with the wage and hour laws and
10 California's unfair business practice law;

11 108. This action will result in a significant benefit to Plaintiff, the Class, and the general
12 public by bringing to a halt unlawful and/or unfair activity;

13 109. Unless this action is prosecuted, members of the Class and general public will not
14 recover those moneys, and many of Defendant's employees would not be aware that the acts and
15 practices they were subjected to by Defendant were wrongful;

16 110. Unless this action is prosecuted, Defendant will continue to mislead their employees
17 about the true nature of their rights and remedies under the wage and hour laws; and

18 111. An award of attorneys' fees and costs is necessary for the prosecution of this action
19 and will result in a benefit to Plaintiff, the Class, aggrieved employees, and to consumers in
20 general, by preventing Defendant from continuing to circumvent the wage and hour statutes and
21 frustrate the long-standing recognition by the California legislature and the courts that such
22 statutes, as pled herein, are not merely a matter of private concern between employer and employee
23 to be eviscerated by considerations of waiver, contributory negligence, good or bad faith, and
24 private agreements. Rather, the wage and hour statutes have been described as a matter of public
25 concern, were designed to provide minimum substantive guarantees to individual workers and are
26 essential to public welfare.

27 REQUEST FOR RELIEF
28

1 WHEREFORE, Plaintiff, on behalf of herself and the Proposed Class, request judgment
2 and the following specific relief against Defendant as follows:

- 3 A. That the Court determine that this action may be maintained as a class action
4 under Code of Civil Procedure § 382;
- 5 B. That the Court determine that this action may be maintained as a PAGA
6 representative action under Cal. Labor Code. §2698 *et seq.*
- 7 C. Provision of class notice to all members of the Class;
- 8 D. That Defendant is found to have violated the above-referenced provisions of the
9 Labor Code, CCR and the IWC Wage Order as to Plaintiff, Class Members and
10 relevant subclass Members;
- 11 E. For compensatory damages, in an amount according to proof at trial, with
12 interest thereon;
- 13 F. For compensation for not being paid overtime;
- 14 G. For compensation for not being paid all wages owed twice per month;
- 15 H. For compensation for not being paid minimum wage;
- 16 I. For compensation for not being paid all wages due upon termination;
- 17 J. For compensation for not being provided rest breaks;
- 18 K. For compensation for not being provided timely meal breaks;
- 19 L. For compensation for not being provided cool-down rest periods;
- 20 M. For compensation for not being paid premium and penalty wages;
- 21 N. That Defendant's actions are found to be willful and/or in bad faith to the extent
22 necessary under §§ 201, 202, 203, and 558 of the California Labor Code for
23 willful failure to pay all compensation owed at the time of separation to
24 Plaintiff, Class Members and aggrieved employees no longer employed by
25 Defendant;
- 26 O. That Plaintiff, Class Members and aggrieved employees receive penalties for
27 Defendant's violation of §226 and 1174 of the California Labor Code for willful
28

1 failure to provide and maintain the required accurate and itemized wage
2 statements;

3 P. That Plaintiff, Class Members and aggrieved employees receive an award in the
4 amount of unpaid wages owed, including interest thereon, and penalties as
5 provided in the Labor Code, CCR and Wage Order, including under Labor Code
6 §§ 203, 510, and 558, subject to proof at trial;

7 Q. That Defendant be ordered to pay restitution to Plaintiff, Class Members and
8 aggrieved employees for amounts acquired through Defendant's unlawful
9 activities pursuant to Business and Professions Code §§ 17200-05 and enjoined
10 to cease and desist from unlawful and unfair activities in violation of California
11 Business and Professions Code § 17200 et. seq.;

12 R. That Plaintiff, Class Members and aggrieved employees receive an award of
13 reasonable attorneys' fees and costs pursuant to Code of Civil Procedure
14 §1021.5, Labor Code §226, 218.5, and 1194 and/or applicable laws;

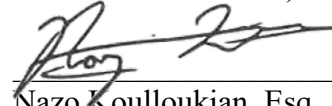
15 S. That the Court award penalties pursuant to Labor Code §2698 *et seq.*;

16 T. That the Court issue declaratory relief that Defendant's challenged policies are
17 unlawful; and

18 U. That the Court order further relief, in law and equity, as it deems appropriate
19 and just.
20

21 DATED: January 24, 2025

22 **KOUL LAW FIRM, APC**

23 

24 Nazo Koulloukian, Esq.
25 Attorneys for Plaintiff ELOISE MARIE
26 WASHINGTON and putative class
27 members
28

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

November 20, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Quanex Homeshield LLC
388 South Main Street, Ste. 700
Akron, OH 44311

Quanex Homeshield LLC
3640 Ramos Drive, #120
West Sacramento, CA 95691

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimants: Eloise Marie Washington
Employer: Quanex Homeshield LLC

Dear Sir or Madam:

Claimant Eloise Marie Washington has retained Nazo Koulloukian, of the Koul Law Firm, APC, and Sahag Majarian, II, and Garen Majarian, of Majarian Law Group, APC, to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, Quanex Homeshield LLC (hereafter “Employer”). Claimant worked for Employer in its shipping and packaging department on an hourly, non-exempt basis until January 2024.

Claimant has recently reached the age of majority and hereby, by and through her Counsel with notice to Employer, formally rescinds any and all agreements, including arbitration agreements and meal period waivers, allegedly entered into while she was a minor.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*, Wage Order 1)

The Wage Orders define “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below. Employer has also failed to pay the required minimum wage for all hours worked and have failed to pay all wages owed twice per month.

Claimant and aggrieved employees have been employed under conditions prohibited by the wage order, and thus Employer has also violated §§1198 and 1199. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Off-the-Clock Hours Worked – Waiting in Required Lines

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer’s control but not compensated for their time. Numerous employees came on shift at the same time which resulted in many employees waiting in required lines to clock in for work to use the timeclock. Claimant recalls waiting up to five minutes each time Claimant and Claimant’s coworkers were required to wait in line to clock in our out. This time spent walking and waiting in required lines was required by Employer prior to each shift and when clocking back in for lunch and was essential and required before employees could begin and/or resume working on the clock.

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a).

Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Due to these failures, Employer is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

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Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practices described herein. Based on Employer's unlawful conduct described herein, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Orders. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated.

Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimant and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

Employer failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law.

Claimant reports that she and her coworkers always experienced shortened rest periods due to the walk due to the walk time of at least two minutes each way spent from their work areas to the break facility and back, resulting in a break of less than 10 minutes.

Rest periods were either less than ten minutes, not provided, interrupted or late, "on duty," or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about

their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided"). Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. (*Id.* at 268) (relying on January 3, 1986, and February 22, 2002, DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; *see also*, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.").

Employer did not authorize or permit all of its hourly employees to take at least a ten-minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks were missed Employer failed to pay the 1-hour penalty, as required. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Rest break – Walk time

Rest breaks were consistently under 10 minutes because employees were required to return back to their workstations within 10 minutes. However, the break facility was located 2-3 minutes from the work areas, significantly cutting into the employees' required 10-minute breaks.

Failure to Provide Timely Meal Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

Labor Code §512 provides, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission.” Paragraph 11 of the Wage Order provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.”

Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employer failed to pay all penalty pay to Claimant or aggrieved employees for noncompliant meal periods. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing to meet the requirements of Labor Code §226(a). As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et seq.*

Claimant and her coworkers were notified of their meal periods by a bell system, however they were required to clock back in from lunch. Due to the time spent walking and waiting in line to clock in and out for their meals, Claimant and her coworkers consistently experienced short meal periods.

Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy; and/or (6) because Employer unlawfully shaved and/or rounded clock in and clock out times for meal periods. Employees were not paid a premium payment, paid as an hour’s wage when meal periods were not given to them in compliance with California law.

Failure To Provide Suitable Seating
(Lab. Code section 1198 and Wage Orders)

Labor Code section 1198 states, in pertinent part, “The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful.”

The Wage Orders provide that:

- (A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.
- (B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

At all relevant times, Employer failed to provide Claimant and aggrieved employees with suitable seating during their employment as required by section 12 of the applicable Wage Order. Claimant and other aggrieved employees were not provided with seating during shifts in which they worked at positions which would reasonably permit the use of seating, nor was seating provided within a 2-3 minute walk from work areas for necessary breaks. Accordingly, Claimant, on behalf of herself and aggrieved employees, will pursue civil penalties under Labor Code §2698 *et seq.*, and all available remedies to the extent allowed by law for the alleged violations.

Failure to Provide Proper Cool-Down Rest Periods

(Cal. Labor Code §§ 226.7, 1198, 2698 *et seq*)

Labor Code section 226.7, subdivision (c) provides:

If an employer fails to provide an employee a... recovery period in accordance with a state ., law, including, but not limited to an applicable statute or applicable regulation, standard, or order of the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Employers required Claimant and aggrieved employees to consistently work in temperatures far exceeding eighty (80) degrees Fahrenheit and did not provide adequate cool down period opportunities.

Since the resting facility was a 2-3 minute walk from the employees' work area and the Employer failed to provide any seating in the work area, there was no opportunity to be able to cool down. Claimant and aggrieved did not feel safe asking to take a moment of rest if they felt like they were going to pass out from the heat because of intimidation and pressure from her Employer.

Claimant and aggrieved employees were exposed to a high risk of suffering heat illness so that their life, safety, and health were jeopardized by Employer's conduct, violating California Code of Regulation, Title, section 3395 and Labor Code sections 226.7 and 1198.

Failure to Provide Safe Working Conditions – Excessive Heat
(Cal. Labor Code §1198, Wage Order)

Employer's workplaces would get unsafely hot. Claimant and aggrieved employees were forced to work in incredibly hot rooms reaching temperatures far exceeding eighty (80) degrees.

Despite there being excessive heat in the facilities, Employer failed to have adequate climate control and ventilation. Although the Employer provided some fans in the facility, Claimant and her coworkers still worked in the unbearable heat.

Wage Order 1 ¶15 requires:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

By violating the wage order, Employer is liable for civil penalties pursuant to §2698 *et seq.*

Failure to Properly Calculate and Pay Sick Leave Wages – Failure to Properly Accrue

Cal. Labor Code §§246, 246(e)(4), 2698 *et seq*

Starting January 1, 2024, Cal. Labor Code §246(e)(4) required employers to provide 40 hours of paid sick leave. Employer failed to properly accrue sick leave hours for Claimant and her coworkers. As a result of these ongoing violations, Employer is liable for, among other things, civil penalties pursuant to Labor Code §2698 *et seq*.

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d).

§226 (a) requires:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Such failures called injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked, and the amount of wages to which they are and were entitled.

Employer knowingly and intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours worked.

Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment-related contracts and documents that contained unlawful terms of employment, including invalid meal period waivers resulting from a noncompliant meal period policy and/or practice.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that he may pursue her claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a horizontal line extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant

PROOF OF SERVICE

Case No. 37-2023-00042295-CU-WT-CTL
Washington v. Quanex Homeshield LLC, et al.

I, NADIA CHAVEZ declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the entitled case. The name and address of my residence or business is KOUL LAW FIRM, 217 South Kenwood Street, Glendale, California 91205.

On January 24, 2025, I served the foregoing document described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

 X **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address from e-mail nadia@koullaw.com pursuant to California Rules of Court. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

 X **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

Caroline C. Dickey
BARNES & THORNBURG LLP
2029 Century Park East, Suite 300
Los Angeles, CA 90067
Caroline.dickey@btlaw.com

Attorney for Defendant QUANEX HOMESHIELD LLC

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this January 24, 2025, in Glendale, California.



NADIA CHAVEZ