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Superior Court of California
County of Fresno
By: T. Espinoza, Deputy

Attorney for Plaintiff,
Rogelio Ornelas

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF FRESNO**

ROGELIO ORNELAS, an individual and
on behalf of others similarly situated;

Plaintiffs,

v.

FOSTER POULTRY FARMS, LLC, a
California Limited Liability; and Does 1
through 50, inclusive,

Defendants.

Case No. [24CECG05621](#)

CLASS ACTION COMPLAINT FOR:

1. Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, et seq.
2. Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, et seq.
3. Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1
4. Failure to Provide Required Meal and Rest Breaks in Violation of Cal. Lab. Code §§ 226.7 and 512
5. Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code § 226
6. Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202, and 203
7. Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802
8. Retaliation in Violation of Cal. Lab. Code §§ 6310
9. Disability Harassment under Gov Code § 12940(j)
10. Wrongful Termination in Violation of Public Policy

DEMAND FOR A JURY TRIAL

1 Plaintiffs ROGELIO ORNELAS (*hereinafter referred to as* “Plaintiff”) hereby submits this
2 Complaint for damages against Defendants FOSTER POULTRY FARMS (*hereinafter referred to as*
3 “Defendant”), and Does 1 through 50 as follows:

4 **INTRODUCTION**

5 1. This Complaint contests systemic illegal employment practices resulting in violations of
6 the California Labor Code, the California Government Code, Business and Professions Code, and
7 applicable IWC Wage Orders against employees of Defendants.

8 2. Defendants, jointly and severally, have acted intentionally and with deliberate indifference
9 and conscious disregard to the rights of all employees in their failure to pay all overtime wages due, failure
10 to provide meal periods, failure to provide paid rest breaks, failure to provide accurate itemized wage
11 statements, and failure to pay wages when due.

12 3. Defendants have engaged in a system of willful violations of the California Labor Code,
13 Business and Professions Code, and applicable IWC Wage Orders by creating and maintaining policies,
14 practices, and customs that knowingly deny overtime compensation at the correct rate, fail to provide meal
15 periods and paid rest breaks, fail to provide accurate itemized wage statements, and fail to pay wages
16 when due.

17 4. As to Plaintiff, Defendants have acted intentionally and with deliberate indifference and
18 conscious disregard to the rights of Plaintiff by making unlawful deductions from Plaintiff’s wages
19 without their written consent, failing to pay all overtime wages due, failing to provide meal periods, failing
20 to provide paid rest breaks, failing to provide accurate itemized wage statements, and failing to pay wages
21 when due.

22 5. The policies, practices, and customs of Defendants, described herein, have resulted in
23 unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere
24 to the requirements and provisions of the California Labor Code, the California Government Code, the
25 California Business and Professions Code, and applicable IWC Wage Orders.

26 **JURISDICTION**

27 6. This Action is within this Court’s jurisdiction under California Labor Code §§ 201, 202,
28 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1197.1, 1198, 2802, and California Business and Professions

Code §§ 17200, et seq.

7. Venue is proper in this Court pursuant to California Code of Civil Procedure § 395(a). Defendants conduct business in Fresno County and the unlawful acts alleged herein have a direct effect on Plaintiff in Merced County. Furthermore, Defendants employed Plaintiff in Fresno County.

ADMINISTRATIVE PREREQUISITES

8. Plaintiff's attorney has filed an administrative complaint against Defendant FOSTER FARMS and received a Notice of Right to Sue from the California Civil Rights Department ("CRD") on December 30, 2024. A true and correct copy of the Notice of Right to Sue is attached as **Exhibit A**.

9. Plaintiff has therefore exhausted his administrative prerequisites before filing this Complaint.

THE PARTIES

10. Defendant Foster Poultry Farms ("Foster Farms") is a California Limited Liability Company that, at all relevant times mentioned herein, conducted and continues to conduct substantial and regular business throughout the country. Foster Farms is an American poultry company that specializes in selling chicken and turkey products and operates hatcheries, ranches, feed mills, processing plants, and refrigerated delivery trucks. The allegations herein are specific to the Foster Farms plant located at 260 S Cherry Ave., Fresno, CA 93706.

11. Plaintiff Rogelio Ornelas was employed by Foster Farms in California as a non-exempt employee entitled to overtime pay, minimum wage, reporting time pay, and meal and rest periods from October 2023 to June 2024. During this period, Mr. Ornelas worked as Sanitation Washdown personnel.

12. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through 50, inclusive, and therefore sue these Defendants by these fictitious names. Plaintiff is informed and believes, and thereon alleges, that each such DOE is in some way responsible for the events alleged herein. Plaintiff will amend this Complaint to allege their true names and capacities when they have been ascertained.

13. PLAINTIFFS brings this Class Action on behalf of themselves and a California class, defined as all individuals who are or previously were employed by DEFENDANT in California and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning on the date four (4) years prior to the filing of this Complaint and ending on the date as

determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

14. PLAINTIFFS brings this Class Action on behalf of themselves and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which failed to lawfully compensate these employees for all their overtime worked. DEFENDANT’s policy and practice alleged herein is an unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to retain wages due to PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and equitable relief.

15. Plaintiff is informed and believes, and thereon alleges, that each Defendant, including DOES 1 through 50, was the employee, agent, and servant of each of the other Defendants and, in doing the things alleged herein, was acting within the course and scope of their authority and with the consent of each other Defendant.

16. Plaintiff is informed and believes, and thereon alleges, that, at all times mentioned herein, each and every Defendant was and is the predecessor in interest, successor in interest, agent, counselor, employee, servant, alter ego, partner, franchisee, and/or joint venturer of each other Defendant and, in doing the actions complained of herein, was acting within the scope of their authority and with such agency, employment, counseling, service, partnership, franchise, and/or joint venture or single enterprise, and with the permission and consent of each Defendant.

17. Plaintiff alleges that each of said Defendants is responsible, jointly and severally, for the events and injuries to Plaintiff, as alleged herein.

GENERAL ALLEGATIONS

18. At all relevant times herein, Plaintiff worked as Sanitation Washdown personnel in the Sanitation Department at the Foster Farms Poultry Production Cherry Ave plant in Fresno, CA (*hereafter referred to as the “Cherry Ave Plant”*), located at 2960 S Cherry Ave. Fresno, CA 93706. During the

1 period from October 2023 through June 2024 (the “relevant time period”), Plaintiff worked as an hourly
2 basis as a non-exempt employee.

3 19. On or around October of 2023, Plaintiff began his employment with Defendant as
4 Sanitation Washdown personnel in the EVIS department of the Cherry Ave Plant.

5 20. Plaintiff’s job duties consisted of cleaning machines and equipment that were used for
6 production of poultry.

7 21. In or around early December 2023, Plaintiff was on the job and accidentally dropped a
8 large piece of metal on his foot, severally injuring his toe. Plaintiff went to see the medical staff at the
9 Cherry Ave Plant but did not fill out any worker’s compensation paperwork. The medical staff gave him
10 an ice pack.

11 22. Plaintiff worked through the pain for weeks and was constantly limping in intense pain. He
12 went back to see the medical staff as his toe was infected at this point. The medical staff proceeded to tell
13 Plaintiff that there was nothing wrong with him and said, **“If you were not a diabetic, your toe would**
14 **not have gotten like that.”**

15 23. Plaintiff’s medical condition was listed in his employment file for medical purposes, but
16 not to be used against him for an unrelated toe injury. Plaintiff’s understanding was that his medical history
17 would be kept confidential.

18 24. Due to the failed treatment from the medical staff at the plant, Plaintiff went to his primary
19 care doctor and was written out on two-week ADA leave to allow his toe to heal.

20 25. Furthermore, in or around April of 2024, Plaintiff slipped and fell at work and injured his
21 ribs. He was severally hurt and went to the emergency room that same day. After this injury, Plaintiff filed
22 a worker’s compensation claim for both his rib injury and toe injury.

23 26. On or around April 5, 2024, Plaintiff received a write up for slipping. Defendants allege
24 that he was not “paying attention to his surroundings when performing his task” and that he had a “lack
25 of awareness.”

26 27. Thereafter, Plaintiff was transferred to work as sanitation personnel in the production
27 department of the plant – the department that employees referred to as the **“gates of hell.”** The “slaughter
28 section” of the Cherry Ave Plant was extremely hot, and the doors of the machines Plaintiff was cleaning

1 and moving around were approximately 300-400 pounds. Plaintiff was demoted to the least desirable area
2 of the Cherry Ave Plant without notification or any reasoning from his supervisor, thereby constituting an
3 adverse employment action.

4 28. Plaintiff was and at all times mentioned herein, fifty-eight (58) years old, significantly older
5 than many of the sanitation personnel on site. Plaintiff was also injured at the time of this switch and had
6 a very hard time moving the doors due to his injured ribs.

7 29. Plaintiff immediately went to his supervisor to complain and ask that he be switched back
8 to his previous department (EVIS department) because he was struggling to lift the heavy machinery with
9 his injury. The only response he received was “**if you can’t do it, you can’t do it.**” Plaintiff became
10 frustrated and several other employees got involved in the verbal argument (*hereinafter referred to as the*
11 “conversation”).

12 30. Thereafter, in or around early June 2024, Plaintiff received a call from Human Resources
13 to set up an appointment to discuss the conversation Plaintiff had with his supervisor regarding the
14 department switch. This appointment was at a different Foster Farms location, and when Plaintiff pulled
15 up to the gate, the security guard handed him his final paycheck and Plaintiff was terminated.

16 31. Plaintiff received a termination letter in the mail, on or around June 12, 2024, alleging that
17 he was terminated due to misconduct.

18 32. Moreover, throughout the course and scope of his employment, Plaintiff regularly worked
19 more than forty (40) hours per week and usually worked six (6) days per week. Defendants would require
20 Plaintiff to come in on certain Sundays after he had already worked a forty-hour week the week before.

21 33. During this time, Defendants did not pay overtime or double-time. Indeed, Plaintiff did not
22 receive paid rest breaks, break premiums for missed breaks, meal period premiums for missed meal
23 periods, or overtime compensation for hours in excess of eight (8) hours per day and/or forty (40) hours
24 per week.

25 34. While at Defendants’ Cherry Ave plant, Plaintiff would perform tasks for the benefit of
26 Defendants including, but not limited to, cleaning and sanitizing machines used for production. Plaintiff
27 was not compensated for all of this time despite performing work for the benefit of Defendants.

28 35. As mentioned above, Plaintiff was not provided timely meal periods and, when working in

1 excess of ten (10) hours, was never provided a second meal period. For the most part, meal periods were
2 either missed or not taken at all due to the strenuous workloads.

3 36. During his tenure with Defendants, Plaintiff almost consistently worked in excess of four
4 (4) hours without being provided a ten (10) minute rest period. Despite this, Defendants failed to provide
5 the required hour of wages in lieu of these rest periods. In fact, Defendants have never paid for a single
6 missed rest or meal period during Plaintiff's employment with Defendants.

7 37. Defendants further failed to reimburse Plaintiffs for all necessary expenditures incurred by
8 Plaintiffs as a direct consequence of the discharge of their duties. This includes, but is not limited to,
9 reimbursements for personal cell phone use, personal vehicle use, and tools.

10 38. In addition to Defendants' unlawful deduction of rightfully earned wages from Plaintiff—
11 which effectively constitutes a failure to pay all wages due and a failure to pay wages for all hours
12 worked—Defendants also failed to pay Plaintiff minimum wage for all hours worked.

13 39. As a result of Defendants' conduct, Defendants violated the Labor Code and the applicable
14 Industrial Welfare Commission ("IWC") Wage Order requirements.

15 40. Defendants intentionally, knowingly, and willfully engaged in a practice whereby
16 Defendants failed to correctly calculate and record Plaintiff's remuneration.

17 41. By reason of Defendants' conduct, Defendants have committed acts of unfair competition
18 in violation of Cal. Bus. & Prof. Code §§ 17200, et seq. (the "UCL"). Indeed, this company-wide policy
19 and procedure failed to accurately calculate and record the correct amount of time worked by the
20 Represented Employees. The proper calculation of Plaintiff's time worked is the Defendants' burden.

21 42. As a result of the Defendants' intentional disregard of the obligation to meet this burden,
22 Defendants failed to properly calculate and/or pay all required overtime, reporting time, and minimum
23 wage compensation for work performed by Plaintiff and violated the California Labor Code.

24 43. By the conduct alleged herein, Defendants have engaged in, and continue to engage in, a
25 business practice which violates California law, including, but not limited to, the applicable Wage
26 Order(s), the California Code of Regulations and the California Labor Code—including Sections 203,
27 204, 210, 226, 226.2, 226.7, 510, 512, 1194, 1197, 1197.1, 1198 and 2802—for which this Court should
28 issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be

necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

FIRST CAUSE OF ACTION

Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, et seq.

(By Plaintiffs and Against All Defendants)

44. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 41 of this Complaint.

45. Defendant is a “person” as defined by Cal. Bus. & Prof. Code § 17021. Sections 17200, et seq., of the California Business and Professions Code (the “UCL”) defines unfair competition as any unlawful, unfair, or fraudulent business acts or practices. Section 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

Cal. Bus. & Prof. Code § 17203.

46. By the conduct alleged herein, Defendants have engaged in, and continue to engage in, a business practice that violates California law, including, but not limited to, the applicable Wage Orders, the California Code of Regulations and the California Labor Code, including, but not limited to, Section 203, 204, 226, 226.7, 510, 512, 1194, 1198 and 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct constituting unfair competition, including restitution of wages wrongfully withheld.

47. Defendants’ practices were unlawful and unfair in that these practices violated public policy, were immoral, unethical, oppressive, unscrupulous or substantially injurious to employees, and were without valid justification or utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California Business & Professions Code, including restitution of wages

wrongfully withheld.

48. Defendants' practices were deceptive and fraudulent in that Defendants' uniform policy and practice failed to pay Plaintiffs their wages due for all time worked, failed to pay wages due for all overtime worked, failed to accurately to record the applicable rate of all overtime worked, failed to provide meal and rest breaks, failed to provide reimbursement for all business expenses incurred, and failed to timely pay Plaintiffs after they were discharged. These companywide practices cannot be justified as they violate the applicable Cal. Lab. Code and Industrial Welfare Commission requirements, and therefore are represent a violation of Cal. Bus. & Prof. Code §§ 17200, et seq. Accordingly, this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

49. Defendants' practices were also unlawful, unfair and deceptive in that Defendants' employment practices caused Plaintiffs to be underpaid during their employment with Defendants.

50. Defendants' practices were also unfair and deceptive in that Defendants' uniform policies, practices and procedures failed to provide mandatory meal and/or rest breaks to Plaintiffs as required by Cal. Lab. Code §§ 226.7 and 512. Therefore, Plaintiff demands one (1) hour of pay for each workday in which a rest period was not timely provided as required by law; and one (1) hour of pay for each workday in which a meal period was not timely provided as required by law.

51. By and through the unlawful and unfair business practices described herein, Defendants have obtained valuable property, money and services from Plaintiffs, including earned wages for all overtime worked, and have deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of Defendants' employees and to the benefit of Defendants so as to allow Defendants to unfairly compete against competitors who comply with the law.

52. All the acts described herein as violations of, among other things, the Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, et seq.

53. Plaintiff is entitled to and seek such relief as may be necessary to restore to him the money

1 and property which Defendants have acquired, or of which Plaintiff has been deprived, by means of the
2 above described unlawful and unfair business practices, including earned but unpaid wages for all
3 overtime worked.

4 54. Plaintiff is further entitled to, and do, seek a declaration that the described business
5 practices were unlawful, unfair and deceptive, and that injunctive relief should be issued restraining
6 Defendants from engaging in any unlawful and unfair business practices in the future.

7 **SECOND CAUSE OF ACTION**

8 **Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, et seq.**

9 **(By Plaintiffs and Against All Defendants)**

10 55. Plaintiff realleges and incorporates by reference, as though fully set forth herein,
11 paragraphs 1 through 52 of this Complaint.

12 56. Pursuant to Cal. Lab. Code § 510, employees shall not be employed more than eight (8)
13 hours per workday or more than forty (40) hour per workweek unless they receive additional compensation
14 beyond their regular wages in amounts specified by law.

15 57. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages for
16 overtime compensation and interest thereon. Section 1198 further states that employment of an employee
17 for longer hours than those fixed by the IWC is unlawful.

18 58. During the relevant time period, Plaintiff worked as Sanitation Personnel for Defendants.

19 59. Plaintiff was in fact a non-exempt employee. Plaintiff regularly worked more than forty
20 (40) hours per week, more than ten (10) hours per day, and usually worked six (6) days per week, coming
21 in on Sundays even after working forty (40) hour week.

22 60. During this time, Defendants did not pay overtime or double-time, even when Plaintiff was
23 required to come in on a Sunday after working a forty (40) hour week but was never paid overtime for the
24 Sunday hours. Indeed, Plaintiff did not receive paid rest breaks, break premiums for missed breaks, meal
25 period premiums for missed meal periods, or overtime compensation for hours in excess of eight (8) hours
26 per day and/or forty (40) hours per week.

27 61. Defendants' wage practice fails to properly pay the overtime rates laid out in Section 510
28 of the Labor Code.

62. In sum, Defendants' uniform pattern of unlawful wage and hour practices deny accurate compensation to Plaintiffs in terms of overtime pay, as no overtime pay was ever provided despite Plaintiffs working more than forty (40) hours per week, more than ten (10) hours per day, and six (6) days per week. Said differently, Defendants failed to pay the required 1.5x rate (either per piece or per hour) for those pieces and work performed and/or completed after eight (8) hours in a single day and forty (40) hours in one week.

63. As a direct result of Defendants' unlawful wage practices, Plaintiff did not receive the correct overtime compensation for work performed for Defendants.

64. Defendants knew or should have known that Plaintiff was not compensated for overtime hours worked because Defendants systematically elected, either through intentional malfeasance or gross negligence, to not pay Plaintiff for overtime hours as a matter of uniform company policy, practice, and procedure.

65. In performing the acts and practices herein alleged in violation of California Labor Laws, and refusing to compensate Plaintiff for all hours worked, including non-productive time, and provide them with the requisite compensation, Defendants acted and continue to act intentionally, oppressively, and maliciously toward Plaintiff with an utter disregard for their legal rights, and with the despicable intent of depriving Plaintiff of their property and legal rights, and otherwise causing them injury in order to increase company profits at the expense of Plaintiff.

66. Plaintiff therefore request recovery of all overtime wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants in the amount as provided by the California Labor Code and/or other applicable statutes. To the extent minimum and overtime compensation is determined to be owed to Plaintiff prior to their termination, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore Plaintiff is also be entitled to waiting time penalties under Cal. Lab. Code § 203, which are sought herein.

THIRD CAUSE OF ACTION

Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1

(By Plaintiff and Against All Defendants)

67. Plaintiff realleges and incorporates by reference, as though fully set forth herein,

paragraphs 1 through 64 of this Complaint.

68. Cal. Lab. Code § 1197 lays out the minimum wage for employees, fixed by the commission, as the minimum wage to be paid to employees. Under Section 1197, the payment of a wage less than the minimum is unlawful.

69. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages including minimum and overtime compensation and interest thereon, along with costs of suit.

70. During the relevant time period, Plaintiff worked as sanitation personnel for Defendants. During the relevant time period, Plaintiff was a non-exempt hourly employee.

71. Plaintiff regularly worked more than forty (40) hours per week, more than ten (10) hours per day, and usually worked six (6) days per week.

72. Plaintiff was not compensated for all wages due. Indeed, Plaintiff did not receive paid rest breaks, break premiums for missed breaks, meal period premiums for missed meal periods, or overtime compensation for hours in excess of eight (8) hours per day and/or forty (40) hours per week.

73. Defendants maintain a uniform wage practice of paying Plaintiff without regard to the correct amount of time or number of hours worked, including overtime for the several Sundays that Plaintiff worked. As such, Defendants' wage practice fails to properly pay Plaintiff for all hours worked.

74. Defendants' uniform pattern of unlawful wage and hour practices applicable to Plaintiff are the result of a uniform policy and practice that denies accurate compensation to the Plaintiff in regard to minimum and overtime pay. Simply put, Plaintiff did not receive the correct minimum wage for work performed for Defendant.

75. In performing the acts and practices herein alleged in violation of California Labor Laws, and refusing to compensate Plaintiff for all hours worked, Defendants acted and continue to act intentionally, oppressively, and maliciously toward Plaintiff with an utter disregard for their legal rights, and with the despicable intent of depriving Plaintiff of their property and legal rights, and otherwise causing them injury in order to increase company profits at the expense of Plaintiff.

76. Plaintiff therefore requests recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants in the amount as provided by the California Labor Code and/or other applicable statutes. To the extent minimum and

overtime compensation is determined to be owed to Plaintiffs prior to their termination, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore Plaintiff is also be entitled to waiting time penalties under Cal. Lab. Code § 203, which are sought herein.

FOURTH CAUSE OF ACTION

Failure to Provide Required Meal and Rest Breaks in Violation of Cal. Lab. Code §§ 226.7 and 512 (By Plaintiff and Against All Defendants)

77. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, paragraphs 1 through 70 of this Complaint.

78. During the relevant time period, Plaintiff worked as Sanitation personnel for Defendants. During the relevant time period, Plaintiff worked as a non-exempt hourly employee.

79. Plaintiff regularly worked more than forty (40) hours per week, more than ten (10) hours per day, and usually worked six (6) days per week.

80. As such, and as outlined above, this means that Plaintiff was not compensated or provided rest breaks.

81. Defendants have a companywide policy that allows for employees to waive their first or second meal period, but that policy does not mention that a meal premium will be provided.

82. As mentioned above, Plaintiff was not provided timely meal periods and, when working in excess of ten (10) hours, was never provided a second meal period. For the most part, meal periods were either missed or not taken at all. Indeed, due to the rigorous work schedules, Plaintiff was never fully relieved of duty by Defendants for their meal periods.

83. During his tenure with Defendants, Plaintiff almost always worked in excess of four (4) hours without being provided a ten (10) minute rest period. Despite this, Defendants failed to provide the required hour of wages in lieu of these rest periods. In fact, Defendants have never paid for a single missed rest or meal period during the Represented Employees' employment with Defendants.

84. As a result, Plaintiff forfeited meal breaks without additional compensation and in accordance with Defendants' strict corporate policy and practice.

85. Defendants further violated California Labor Code § 226.7 and the applicable IWC Wage Order by failing to compensate Plaintiff with one (1) additional hour of compensation at Plaintiff's regular rate of pay for each workday that a rest period was not provided.

86. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

FIFTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code § 226

(By Plaintiff and Against All Defendants)

87. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 84 of this Complaint.

88. Cal. Labor Code § 226 provides that an employer must furnish employees with an "accurate itemized" statement, in writing, showing the following:

- a. Gross wages earned;
- b. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) Section 515 or any applicable order of the Industrial Welfare Commission;
- c. The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
- d. All deductions, provided that all deductions made on written order of the employee may be aggregated and show as one item;
- e. Net wages earned;
- f. The name of the employee or his or her social security number. Except that by January 1, 2008, only the last four digits of his or her social security number or any employee identification number other than a social security number may be shown on the itemized statement;
- g. The name and address of the legal entity that is the employer;
- h. All applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee.

89. When Plaintiff worked overtime, missed meal and rest periods, Defendants violated Labor Code § 226 as they failed to provide an accurate wage statement in writing that properly and accurately

1 itemized the amount owed to Plaintiff for compensable time worked, penalties incurred, or reimbursable
2 costs expended.

3 90. Moreover, Defendants deliberately and inaccurately recorded the total number of
4 compensable hours worked by Plaintiff in order to avoid the payment of overtime compensation in
5 violation of Section 226.

6 91. Defendants knowingly and intentionally failed to comply with Section 226, ultimately
7 causing damages to Plaintiff. These damages include, but are not limited to, costs expended calculating
8 the true amount of time worked and the amount of employment taxes, which were not properly paid to
9 state and federal tax authorities. These damages are difficult to estimate. Therefore, Plaintiff elects to
10 recover \$50.00 for the initial pay period in which the violation occurred, and \$100.00 for each violation
11 in subsequent pay period pursuant to Labor Code § 226, in an amount according to proof at the time of
12 trial (but not more than \$4,000.00).

13 **SIXTH CAUSE OF ACTION**

14 **Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202, and 203**

15 **(By Plaintiff and Against All Defendants)**

16 92. Plaintiff realleges and incorporates by reference, as though fully set forth herein,
17 paragraphs 1 through 89 of this Complaint.

18 93. Cal. Lab. Code § 200 provides for the following:

19 As used in this article:(a) "Wages" includes all amounts for labor performed
20 by employees of every description, whether the amount is fixed or
21 ascertained by the standard of time, task, piece, Commission basis, or other
22 method of calculation.(b) "Labor" includes labor, work, or service whether
23 rendered or performed under contract, subcontract, partnership, station plan,
24 or other agreement if the labor to be paid for is performed personally by the
25 person demanding payment.

26 Cal. Lab. Code § 200.

27 94. Cal. Lab. Code § 201 reads, in relevant part, that "[i]f an employer discharges an employee,
28 the wages earned and unpaid at the time of discharge are due and payable immediately." Cal. Lab. Code
§ 201.

95. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

Cal. Lab. Code § 202.

96. There was no definite term in Plaintiff's employment contracts. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

Cal. Lab. Code § 203.

97. Plaintiff was terminated. Since terminating Plaintiff's employment, Defendant has not tendered an accurate payment to the Plaintiff for all wages earned, as required by law.

98. Accordingly, Plaintiff demands up to thirty days of pay as penalty for not paying all wages due at time of termination and demands an accounting and payment of all wages due, plus interest and statutory costs as provided by Cal Lab. Code § 203.

SEVENTH CAUSE OF ACTION

Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802

(By Plaintiff and Against All Defendants)

99. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 96 of this Complaint.

100. Cal. Lab. Code § 2802 provides that:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

Cal. Lab. Code § 2802.

101. At all relevant times herein, Defendants violated Section 2802 by failing to indemnify and reimburse Plaintiff for required expenses incurred in the discharge of their job duties for Defendants' benefit. Defendants failed to reimburse Plaintiff for expenses which include, but are not limited to, costs related to purchasing tools for the job. These expenses were necessary for Plaintiff to complete his principal job duties.

102. Defendant failed to indemnify and reimburse Plaintiff for any and all of these expenses as an employer is required to do under the laws and regulations of the State of California.

103. Plaintiff is entitled to be reimbursed for expenditures or losses incurred by them in the discharge of his job duties for Defendants.

EIGHTH CAUSE OF ACTION

Retaliation in Violation of Cal. Lab. Code §§ 6310

(By Plaintiff and Against All Defendants)

104. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 89 of this Complaint.

105. Cal. Lab. Code § 6310 provides that:

No person shall discharge or in any manner discriminate against any employee because the employee has done any of the following:

- (1) Made any oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, their employer, or their representative. (2) Instituted or caused to be instituted any proceeding under or relating to their rights or has testified or is about to testify in the proceeding or because of the exercise by the employee on behalf of themselves, or others of any rights afforded to them. (3) Participated in an occupational health and safety committee established pursuant to Section 6401.7. (4) Reported a work-related fatality, injury, or illness, requested access to occupational injury or illness reports and records that are made or maintained pursuant to Subchapter 1 (commencing with Section 14000) of Chapter 1 of Division 1 of Title 8 of the California Code of Regulations, or exercised any other rights protected by the federal Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.), except in cases where the employee alleges they have been retaliated against because they have filed

1 or made known their intention to file a workers' compensation
2 claim pursuant to Section 132a, which is under the exclusive
3 jurisdiction of the Workers' Compensation Appeals Board.

Cal. Lab. Code §6310

4 106. At all relevant times herein, Plaintiff was employed by Defendants as Sanitation Washdown
5 personnel in the Sanitation Department at the Cherry Ave Plant, located at 2960 S Cherry Ave., Fresno,
6 CA.

7 107. In or around early December 2023, Plaintiff suffered a workplace injury, dropping a large
8 piece of metal on his foot and severely injuring his toe. Despite reporting the injury to the medical staff
9 at the Cherry Ave Plant, Plaintiff was not provided adequate treatment, and his condition worsened.

10 108. In or around April 2024, Plaintiff filed a workers' compensation claim for injuries to his ribs
11 and toe after suffering a second workplace injury where he slipped and fell. **Filing this claim**
12 **constitutes protected activity under California Labor Code § 6310**

13 109. Following Plaintiff's protected activity of filing a workers' compensation claim:

14 (a) Plaintiff received a written disciplinary action on or around April 5, 2024,
15 alleging that he was not "paying attention to his surroundings" during the
16 workplace accident;

17 (b) Plaintiff was demoted without justification to the least desirable department,
18 known as the "slaughter section" of the Cherry Ave Plant, which was physically
19 grueling and unsuitable given his injuries;

20 (c) Plaintiff's requests to be reassigned back to his prior department were
21 ignored, with his supervisor stating, "If you can't do it, you can't do it.";

22 (d) Plaintiff was terminated in early June 2024, receiving his final paycheck when
23 he arrived for a meeting with Human Resources. The termination was pretextually
24 attributed to alleged "misconduct."

25 110. Defendants' adverse actions, including issuing a disciplinary write-up, demoting Plaintiff to
26 a physically demanding department, and ultimately terminating him, were substantially motivated by
27 Plaintiff's exercise of his protected rights, including filing a workers' compensation claim and
28 complaining about unsafe working conditions.

111. Plaintiff suffered harm as a result of Defendants' conduct, including but not limited to loss of employment, wages, and benefits; emotional distress; and damage to his professional reputation. Plaintiff's termination has caused significant financial and emotional hardship.

112. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered and continues to suffer economic and non-economic damages, including but not limited to loss of earnings, benefits, and emotional distress, in an amount to be proven at trial.

113. As a further direct and proximate result of Defendants' unlawful conduct, Plaintiff has incurred and will continue to incur attorneys' fees and costs in pursuing this action.

114. Defendant's conduct violated the public policy of the State of California that employers shall not retaliate against employees who exercise their workplace rights, including those protected under California Labor Code § 6310.

NINTH CAUSE OF ACTION

Disability Harassment Under Gov. Code §§ 12940 (j)

(By Plaintiff and Against All Defendants)

115. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 111 of this Complaint.

116. Defendant wrongfully discriminated and harassed Plaintiff based on his history of diabetes.

117. Plaintiff worked as Sanitation Personnel for Defendant.

118. Defendants knew that Plaintiff had diabetes, as he was required to list any medical conditions in his medical documentation that could potentially affect his day-to-day work.

119. Although Plaintiff suffered from diabetes, Plaintiff was still able to perform his essential job duties, like cleaning the machines, without the need for any reasonable accommodation.

120. When Plaintiff injured his foot while on the job. Plaintiff worked through the pain for weeks and was constantly limping in intense pain. Thus, he went back to see the medical staff as his toe was infected at this point. The medical staff told Plaintiff that his toe became infected because he was a

1 diabetic, thereby belittling Plaintiff for his physical disability, although it had no correlation to
2 Plaintiff's toe injury.

3 121. Thereafter, Plaintiff was demoted to the slaughter department ("gates of hell"), the least
4 desirable part of the plant to work in, and an area that required employees to lift door that weighed up
5 to four hundred pounds. As such, Plaintiff suffered an adverse employment action because of his
6 disability.

7 122. In addition, after Plaintiff filed a worker's compensation claim for his toe injury and rib
8 injury that happened after, he was terminated.

9 123. Plaintiff alleges that his history of diabetes was a substantial motivating reason
10 Defendant's adverse employment action and demotion to the "gates of hell" and later on, termination.

11 124. Defendant's conduct was a substantial factor in causing Plaintiff demotion and
12 termination, and was harrasive.

13 125. As a direct and proximate result of Defendant's willful, knowing, and intentional
14 discrimination against Plaintiff, Plaintiff is entitled to compensatory damages in an amount to be
15 determined at trial for all economic losses suffered and any other financial harm caused by Defendant's
16 actions.

17 126. Plaintiff is informed and believes, and based thereon alleges, that Defendant's outrageous
18 conduct, directed at Plaintiff, was done with malice, fraud, or oppression and with conscious disregard
19 for Plaintiff's rights, and with the intent, design, and purpose of injuring him. Defendant, through its
20 officers, managing agents, and/or supervisors, authorized, condoned, and/or ratified the unlawful acts of
21 all of the other defendants. As such, Plaintiff is entitled to exemplary or punitive damages from Defendant
22 in amounts to be determined subject to proof at trial.

23 **TENTH CAUSE OF ACTION**

24 **Wrongful Termination in Violation of Public Policy**

25 **(By Plaintiff and Against All Defendants)**

26 127. California's worker's compensation laws, namely California Labor Code §132(a),
27 establish a fundamental policy of this state against the action of any employer who discharges, threatens
28 to discharge, or in any manner discriminates against an employee because the employee has, among

1 other things, been injured on the job and/or because the employee has filed or intended to file a worker's
2 compensation claim. By its conduct set forth herein, Defendant violated the public policy of the state of
3 California as set forth in Labor Code 132(a).

4 128. It is the public policy of the State of California that employers shall not engage in
5 discrimination against employees who are disabled, nor retaliate against them. Defendant violated the
6 public policy of California embodied in California Government Code §12940 et seq. by taking adverse
7 employment actions against Plaintiff, as alleged herein, all in retaliation for asserting his rights under
8 various state and federal laws protecting those who are disabled.

9 129. Plaintiff alleges that there existed a causal connection between Plaintiff's disability,
10 and the adverse employment actions taken against Plaintiff by Defendant during the weeks subsequent.

11 130. Plaintiff further alleges that the aforementioned conduct by Defendant was a substantial
12 factor in causing Plaintiff's harm.

13 131. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff was wrongfully
14 terminated from his job and lost all wages and benefits associated with the job therefrom.

15 132. As a direct and proximate result of the aforementioned acts of Defendant, Plaintiff has
16 suffered severe financial losses, including without limitation, exacerbation of his injuries, loss of
17 employment related opportunities in his field, damage to his professional reputation, and an
18 unnecessarily prolonged inability to go back to work constituting additional lost wages, all in an amount
19 subject to proof at the time of trial.

20 133. As a direct and proximate result of the wrongful acts of Defendants, Plaintiff has suffered
21 and continues to suffer emotional distress, humiliation, mental anguish, and embarrassment. Plaintiff is
22 informed and believes, and thereupon alleges, that he will continue to experience said emotional
23 suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the
24 time of trial.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, jointly and severally, as follows:

AS TO THE CLASS ACTION CLAIMS:

1. For an order certifying the proposed Class and Sub-Classes;
2. For an order appointing Plaintiff as the representative of the Class and Sub-Classes;
3. For an order appointing Counsel for Plaintiff as Class counsel;
4. For all meal period premium wages owed;
5. For all rest break premium wages;
6. For all minimum and overtime wages owed;
7. For liquidated damages under Labor Code § 1194.2;
8. For the unpaid balance of the full amount of damages owed, according to proof;
9. For waiting time penalties;
10. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
11. An order temporarily, preliminarily and permanently enjoining and restraining Defendants from engaging in similar unlawful conduct as set forth herein;
12. The amount of the expenses Plaintiff incurred in the course of his job duties for Defendants, plus interest;
13. For penalties pursuant to statutes set forth in California Labor Code §§ 201-204, 221, 222, 223, 226, 226.3, 226.4, 226.7, 450, 511, 512, 558, 1193.6, 1194.42, 1194.5, 1197.1, and other sections inadvertently omitted;

AS TO ALL CLAIMS:

14. For compensatory damages of no less than \$25,000;
15. An award of exemplary and/or punitive damages against Defendants;
16. For prejudgment and post judgment interest;
17. For costs and attorneys' fees; and

1 18. For such other relief as the Court deems just and proper.

2
3 Dated: December 31, 2024

WEBB LAW GROUP, APC

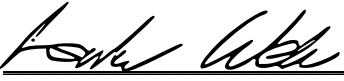
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5 By: 
6 Lenden F. Webb Esq.
7 Attorney for Plaintiff
8 ROGELIO ORNELAS
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EXHIBIT A



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

December 30, 2024

RE: **Notice of Filing of Discrimination Complaint**
CRD Matter Number: 202412-27565530
Right to Sue: Ornelas / Foster Poultry Farms, LLC

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

December 30, 2024

Rogelio Ornelas

,

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202412-27565530
Right to Sue: Ornelas / Foster Poultry Farms, LLC

Dear Rogelio Ornelas:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective December 30, 2024 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Rogelio Ornelas

CRD No. 202412-27565530

Complainant,

vs.

Foster Poultry Farms, LLC
2960 S Cherry Ave.
Fresno, CA 93706

Respondents

1. Respondent **Foster Poultry Farms, LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant **Rogelio Ornelas**, resides in the City of , State of .

3. Complainant alleges that on or about **June 12, 2024**, respondent took the following adverse actions:

Complainant was harassed because of complainant's medical condition (cancer or genetic characteristic).

Complainant experienced retaliation because complainant requested or used a disability-related accommodation and as a result was terminated, demoted.

Additional Complaint Details:

1 VERIFICATION

2 I, **Lenden F. Webb**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On December 30, 2024, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

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Fresno, CA