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on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

ANANIAS SNIPES, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

BALANCE STAFFING WORKFORCE LLC a
California limited liability company; ANIMAL
SUPPLY COMPANY LLC, a Delaware limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.
Assigned To Judge:
Dept.:

CLASS ACTION COMPLAINT

1. **Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof**
2. **Failure to Timely Pay Wages**
3. **Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions**
4. **Violations of the Unfair Competition Law**

JURY TRIAL DEMANDED

1 Plaintiff ANANIAS SNIPES on behalf of himself and all others similarly situated assert
2 claims against Defendants BALANCE STAFFING WORKFORCE LLC (“Balance Staffing”);
3 ANIMAL SUPPLY COMPANY LLC (“Animal Supply”); and DOES 1 through 50, inclusive as
4 follows:

5 **I.**

6 **INTRODUCTION**

7 1. Pursuant to Code of Civil Procedure section 382, Plaintiff Ananias Snipes
8 (hereinafter referred to as “Plaintiff”) brings this class action against Balance Staffing, Animal
9 Supply, and DOES 1 through 50, inclusive (hereinafter collectively referred to as
10 "Defendants") for violations of California Labor Code and Bus. & Prof. Code §17200.

11 2. Plaintiff brings this class action on behalf of himself and all employees not
12 classified as “Exempt” or primarily employed in executive, professional, or administrative
13 capacities, employed by, or formerly employed by Defendants in California who occupied
14 positions of “order selector”. (hereinafter referred to as “Non-Exempt Employees” and/or
15 “Class Members”).

16 3. During the liability period, defined as the applicable statute of limitations for
17 each and every cause of action contained herein, Defendants enforced shift schedules,
18 employment policies and practices, and workload requirements wherein Plaintiff and all other
19 Non Exempt Employees: were not permitted to take their full statutorily authorized meal
20 periods, or had their meal periods shortened or provided to them late due to the scheduling and
21 work load and time requirements placed upon them by Defendants. Defendants failed to pay
22 such employees one (1) hour of pay at the employees regular rate of compensation for each
23 workday that the meal period that was not properly provided.

24 4. During the relevant time period, Defendants failed to maintain accurate
25 itemized records reflecting total hours worked and failed to provide Plaintiff and similarly
26 situated Non-Exempt Employees with accurate, itemized wage statements reflecting total
27 hours worked and appropriate rates of pay for those hours worked.

5. During the relevant time period, Defendants have also failed to pay all wages owed to Plaintiff and similarly situated discharged or resigned Non-Exempt Employees in a timely manner.

6. Plaintiff, on behalf of himself and all similarly situated Class Members brings this action pursuant to Labor Code sections 201, 202, 203, 204, 226, 226.7, 512, 1199, Title 8, section 11100 *et seq.* and any other applicable Industrial Welfare Commission (“IWC”) Wage Orders, seeking unpaid wages, penalties, statutory and/or actual damages and other equitable relief, and reasonable attorneys’ fees and costs.

7. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and Professions Code sections 17200-17208, also seeks restitution from Defendants for their failure to pay all overtime wages and rest and meal period premiums to each of their Non-Exempt Employees.

II.

VENUE

8. Venue as to each Defendant is proper in this judicial district pursuant to Code of Civil Procedure section 395. Defendants conduct substantial and continuous commercial activities in San Joaquin County, California and each Defendant is within the jurisdiction of this Court for service of process purposes. Defendants employ numerous Class Members in San Joaquin County, California.

III.

PARTIES

9. Plaintiff is, and at all times mentioned in this complaint was, a resident of San Joaquin County, California.

10. On information and belief, Defendants were at all times mentioned herein licensed and qualified to do business in California. On information and belief, Plaintiff alleges that at all relevant times referenced herein Defendants did and continue to conduct business throughout California.

11. The true names and capacities of Defendants, whether individual, corporate,

1 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
2 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
3 section 474. Plaintiff is informed and believes, and based thereon alleges, that each of the
4 Defendants designated herein as a DOE is legally responsible in some manner for the unlawful
5 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the
6 true names and capacities of the Defendants designated hereinafter as DOES when such
7 identities become known.

8 12. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
10 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
11 Defendant are legally attributable to the other Defendants.

12 IV.

13 FACTUAL BACKGROUND

14 13. Defendant Animal Supply is a corporation located in Stockton, California and
15 engaged in distributing wholesale pet products throughout California and the United States.

16 14. On information and belief, Defendant Balance Staffing provides employment
17 staffing services to companies in the state of California including Defendants.

18 15. Plaintiff Snipes was employed by Defendants from on or about November 2019
19 through on or about January 2020. During his employment with Defendants, he occupied a non-
20 exempt position as an order selector.

21 16. Due to the work load requirements and understaffing in the stores where they
22 worked, Plaintiff and Class Members were required to work in excess of five (5) hours without a
23 minimum, timely and/or uninterrupted thirty (30) minute meal period and not being
24 compensated one (1) hour of pay at their regular rate of compensation for each workday that a
25 meal period was not provided, in violation of California labor laws, regulations and IWC Wage
26 Order.

27 17. On information and belief, Defendants willfully failed to pay all earned wages in
28 a timely manner to Plaintiff and upon information and belief to Non Exempt Employees; nor

1 have Defendants paid to Plaintiff, and upon information and belief to Class Members, upon or
2 after termination of their employment with Defendants, all compensation due, including but not
3 limited to all wages owed and compensation for having failed to properly provide meal periods.

4 18. Plaintiff was not timely provided his final paycheck and did not receive his final
5 paycheck until approximately one week after his employment with Defendants was terminated
6 in violation of Labor Code §§ 201-203.

7 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 currently employ and during the relevant period have employed over one hundred (100)
9 employees in the State of California in non exempt positions.

10 20. Non-Exempt Employees employed by Defendants, at all times pertinent hereto,
11 have been non-exempt employees within the meaning of the California Labor Code, and the
12 implementing rules and regulations of the IWC California Wage Orders.

13 **V.**

14 **CLASS ACTION ALLEGATIONS**

15 21. Plaintiff seeks to represent a Class comprised of and defined as: All persons who
16 are or were employed by Defendants in the state of California to work for Animal Supply as
17 Non Exempt Employees within four (4) years prior to the date this lawsuit is filed (“liability
18 period”) until resolution of this lawsuit .

19 22. Plaintiff also seeks to represent Subclasses of Non- Exempt Employees which are
20 composed of persons satisfying the following definitions:

21 a. All persons who are or were employed by Defendants in the state of
22 California to work for Animal Supply in the state of California as hourly non exempt employees
23 who occupied positions of order selector and who, within the liability period, have not been
24 provided a timely and/or uninterrupted 30 minute meal period when they worked over five hours
25 in a work shift by the end of the fifth hour and were not provided compensation in lieu thereof;

26 b. All persons who are employed or have been employed by Defendants in
27 the state of California to work for Animal Supply in the state of California as hourly non exempt
28 employees who occupied positions of order selector and who, were not timely paid all wages

1 due and owed to them upon the termination of their employment with Defendants;

2 c. All persons who are employed or have been employed by Defendants in
3 the state of California to work for Animal Supply in the state of California as hourly non exempt
4 employees who occupied positions of order selector and who, were not provided with accurate
5 and complete itemized wage statements.

6 23. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend
7 or modify the class description with greater specificity or further division into subclasses or
8 limitation to particular issues.

9 24. This action has been brought and may properly be maintained as a class action
10 under the provisions of section 382 of the Code of Civil Procedure because there is a well-
11 defined community of interest in the litigation and the proposed Class is easily ascertainable.

12 **A. Numerosity**

13 25. The potential members of the Class as defined are so numerous that joinder of all
14 the members of the Class is impracticable. While the precise number of Class Members has not
15 been determined at this time, Plaintiff is informed and believes that Defendants currently
16 employ, and/or during the relevant time period employed, as many as over one hundred
17 employees in California who are or have been affected by Defendants' unlawful practices as
18 alleged herein.

19 **B. Commonality**

20 26. There are questions of law and fact common to the Class predominating over any
21 questions affecting only individual Class Members. These common questions of law and fact
22 include, without limitation:

23 i. Whether Defendants violated sections 201-203 of the Labor Code by failing to
24 pay all wages due and owing at the time that any Non-Exempt Employees' employment
25 with Defendants terminated;

26 ii. Whether Defendants violated Labor Code §§226.7, 512 and applicable IWC
27 Wage Order by failing to provide statutorily compliant 30 minute meal periods to Non-
28

1 Exempt Employees on days in which they worked in excess of 5 hours and failing to
2 compensate said employees one hour wages in lieu of meal periods;

3 iii. Whether Defendants violated sections 226 of the Labor Code and applicable
4 IWC Wage Orders by failing to, among other violations, maintain accurate records of
5 Non-Exempt Employees' earned wages, work periods, and deductions;

6 iv. Whether Defendants violated section 17200 *et seq.* of the Business and
7 Professions Code through their violation of the above-referenced Labor Code and Civil
8 Code sections and applicable IWC Wage Orders which violation constitutes a violation
9 of fundamental public policy.

10 **C. Typicality**

11 27. The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff
12 and all members of the Class sustained injuries and damages arising out of and caused by
13 Defendants' common course of conduct in violation of California laws, regulations, and statutes
14 as alleged herein.

15 **D. Adequacy of Representation**

16 28. Plaintiff will fairly and adequately represent and protect the interests of the
17 members of the Class. Counsel who represents Plaintiff is competent and experienced in
18 litigating large employment class actions

19 **E. Superiority of Class Action**

20 29. A class action is superior to other available means for the fair and efficient
21 adjudication of this controversy. Individual joinder of all Class Members is not practicable,
22 and questions of law and fact common to the Class predominate over any questions affecting
23 only individual members of the Class. Each member of the Class has been damaged and is
24 entitled to recovery by reason of Defendants' unlawful policy and/or practice herein complained
25 of.

26 30. Class action treatment will allow those similarly situated persons to litigate their
27 claims in the manner that is most efficient and economical for the parties and the judicial
28 system. Plaintiff is unaware of any difficulties that are likely to be encountered in the

management of this action that would preclude its maintenance as a class action.

VI.

CAUSES OF ACTION

First Cause of Action

Failure to Provide Lawful Meal Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, 512, IWC Wage Orders)
(Against All Defendants)

31. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

32. As discussed herein, by Defendants' failure to provide 30 minute uninterrupted meal periods by the end of the fifth hour for days on which Non-Exempt employees work(ed) work periods in excess of 5 hours and failing to provide compensation for such statutorily non-compliant meal periods, Defendants violated the provisions of Labor Code §512 and applicable IWC Wage Orders.

33. By failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendants have injured Plaintiff and Class Members and made it difficult to calculate the unpaid meal period compensation due Plaintiff and Class Members.

34. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

35. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Second Cause of Action

Failure to Timely Pay Wages Due At Termination
(Lab. Code §§ 201-203)
(Against All Defendants)

36. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

1 37. Sections 201 and 202 of the California Labor Code require Defendants to pay its
2 employees all wages due within 72 hours of termination of employment. Section 203 of the
3 Labor Code provides that if an employer willfully fails to timely pay such wages the employer
4 must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in
5 full or an action is commenced. The penalty cannot exceed 30 days of wages.

6 38. Affected class members are entitled to compensation for all forms of wages
7 earned but to date have not received such compensation therefore entitling them Labor Code
8 section 203 penalties.

9 39. More than 30 days have passed since Plaintiff and affected Class Members have
10 left Defendants' employ, and on information and belief, have not received payment pursuant to
11 Labor Code §203. As a consequence of Defendants' willful conduct in not paying all earned
12 wages, certain Class Members are entitled to 30 days' wages as a penalty under Labor Code
13 section 203 for failure to pay legal wages.

14 40. As alleged herein, Defendants willfully failed to pay all earned wages in a timely
15 manner to Plaintiff and upon information and belief to Non Exempt Employees; nor have
16 Defendants paid to Plaintiff, and upon information and belief to Class Members, upon or after
17 termination of their employment with Defendants, all compensation due, including but not
18 limited to all wages owed and compensation for having failed to properly provide meal periods.

19 41. Additionally, Defendants violated Labor Code §§ 201-203 when Plaintiff was
20 not timely provided his final paycheck. On information and belief, Plaintiff did not receive his
21 final paycheck until approximately one week after his employment with Defendants was
22 terminated.

23 42. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
24 described herein and below.

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Third Cause of Action
Knowing and Intentional Failure to Comply With Itemized Employee
Wage Statement Provisions
(Lab. Code § 226(b))
(Against All Defendants)

43. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

44. Section 226(a) of the California Labor Code requires Defendants to itemize in wage statements all deductions from payment of wages. IWC Wage Orders require Defendants to maintain time records showing, among others, when the employee begins and ends each work period, meal periods, split shift intervals and total daily hours worked in an itemized wage statement, and must show all deductions and reimbursements from payment of wages. On information and belief, Defendants have failed to record all or some of the items delineated in Industrial Wage Orders and Labor Code §226.

45. Plaintiff and Class Members have been injured by Defendants' actions by rendering them unaware of the full compensation to which they were entitled under applicable provisions of the California Labor Code and applicable IWC Wage Orders.

46. Pursuant Labor Code §226, Plaintiff and Class Members are entitled up to a maximum of \$4,000.00 each for record-keeping violations.

47. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Fourth Cause of Action
Violation of Unfair Competition Law
(Bus. & Prof. Code, §§ 17200-17208)
(Against All Defendants)

48. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

49. Business & Professions Code Section 17200 provides:

As used in this chapter, unfair competition shall mean and include any **unlawful, unfair** or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1

(commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

50. Defendants' violations of the Labor Code, Wage Order and Civil Code provisions set forth above constitute unlawful and/or unfair business acts or practices.

51. The actions of Defendants, as alleged within this Complaint, constitute false, fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of Business and Professions Code section 17200, *et seq.*

52. Plaintiff and Class Members have been personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein.

53. As a direct and proximate result of the unfair business practices of Defendants, and each of them, Plaintiff, individually and on behalf of all employees similarly situated, is entitled to seek all available remedies under Bus. & Prof. Code §17200 including restitution and recovery of reasonable attorneys' fees pursuant to California Code of Civil Procedure section 1021.5.

54. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

VII.

PRAYER

WHEREFORE, Plaintiff prays for judgment as follows:

1. That the Court determine that this action may be maintained as a class action;
2. For compensatory damages in an amount according to proof with interest thereon;
3. For economic and/or special damages in an amount according to proof with interest thereon;
4. For premium wages pursuant to Labor Code §§ 226.7 and 512;
5. For premium pay and penalties pursuant to Labor Code §§ 203, 226;
6. For attorneys' fees, interests and costs of suit under Labor Code § 226;
7. For injunctive relief; and
8. For such other and further relief as the Court deems just and proper.

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Dated: December 22, 2020

Sandra DeLandz
James B. Hoxkins, Esq.

Isandra Y. Fernandez, Esq.

Attorneys for Plaintiff, Ananias Snipes