

1 DOUGLAS HAN (SBN 232858)  
2 SHUNT TATAVOS-GHARAJEH (SBN 272164)  
3 DANIEL J. PARK (SBN 274973)  
4 ARSINÉ GRIGORYAN (319517)  
5 **JUSTICE LAW CORPORATION**  
6 751 N. Fair Oaks Avenue, Suite 101  
7 Pasadena, California 91103  
8 Tel: (818) 230-7502  
9 Fax: (818) 230-7259

10 *Attorneys for Plaintiff*

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

13 KAMADA MCDANIEL, individually, and on  
14 behalf of other members of the general public  
15 similarly situated, and on behalf of aggrieved  
16 employees pursuant to the Private Attorneys  
17 General Act (“PAGA”);

18 Plaintiff,

19 v.

20 ROYAL CUP, INC., a Delaware corporation;  
21 and DOES 1 through 100, inclusive;

22 Defendants.

CASE No.

CLASS ACTION

**CLASS ACTION COMPLAINT FOR  
DAMAGES & ENFORCEMENT  
UNDER THE PRIVATE ATTORNEYS  
GENERAL ACT, CALIFORNIA  
LABOR CODE §§ 2698, ET SEQ.**

- (1) Violation of California Labor Code §§ 510, 1194, and 1198
- (2) Violation of California Labor Code §§ 226.7 and 512(a)
- (3) Violation of California Labor Code § 226.7
- (4) Violation of California Labor Code § 226(a)
- (5) Violation of California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)
- (6) Violation of California Business & Professions Code § 17200, et seq.

**DEMAND FOR JURY TRIAL**

1 COMES NOW, Plaintiff Kamada McDaniel, individually and on behalf of other  
2 members of the general public similarly situated, and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to California Code of Civil Procedure  
5 section 382. The monetary damages and restitution sought by Plaintiff exceed the minimal  
6 jurisdiction limits of the Superior Court and will be established according to proof at trial.

7 2. This Court has jurisdiction over this action pursuant to the California  
8 Constitution, Article VI, section 10, which grants the Superior Court “original jurisdiction in  
9 all causes except those given by statute to other courts.” The statutes under which this action  
10 is brought do not specify any other basis for jurisdiction.

11 3. This Court has jurisdiction over Defendant because, upon information and  
12 belief, each party is either a citizen of California, has sufficient minimum contacts in  
13 California, or otherwise intentionally avails itself of the California market so as to render the  
14 exercise of jurisdiction over it by the California courts consistent with traditional notions of  
15 fair play and substantial justice.

16 4. Venue is proper in Alameda County because, amongst other reasons, Defendant  
17 has maintained and continues to maintain its offices in Alameda County, key witnesses are  
18 located within Alameda County and Defendant employs Alameda County residents, including  
19 some of the class members.

20 **THE PARTIES**

21 5. Plaintiff Kamada McDaniel (“Plaintiff”) is an individual residing in the State of  
22 California and was employed as a salaried “exempt” Territory Manager by ROYAL CUP, INC.  
23 at one of its locations in Alameda County from approximately June 2018 to present.

24 6. Defendant ROYAL CUP, INC., at all times herein mentioned, was and is, upon  
25 information and belief, a Delaware corporation, and at all times herein mentioned, an employer  
26 whose employees are engaged throughout the State of California, County of Alameda.

27 7. At all relevant times, ROYAL CUP, INC. was the “employer” of Plaintiff and  
28 the other class members within the meaning of all applicable state laws and statutes.



1           14. Plaintiff is informed and believes, and based thereon alleges, that at all times  
2 herein relevant, without any justification, Defendants ignored the employment and personnel  
3 policy changes proposed by skilled lawyers and other professionals, employees, advisors, and  
4 consultants highly knowledgeable about California wage laws, employment and personnel  
5 practice.

6           15. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
7 engaged in a uniform policy and systematic scheme of wage abuse against their exempt  
8 employees. This scheme involved, *inter alia*, misclassifying its employees and failing to pay  
9 its employees for all time worked, failing to pay minimum wage, failing to pay overtime  
10 according to California Labor Laws, failing to provide meals and rest breaks and failing to  
11 reimburse business expenses incurred.

12           16. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
13 knew or should have known that Plaintiff and the other class members were misclassified and  
14 was entitled to receive wages for all time worked, minimum wage and overtime compensation,  
15 and that they were not receiving wages for all hours worked, minimum wage and wages for  
16 overtime compensation.

17           17. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
18 knew or should have known that Plaintiff and the other class members were entitled to receive  
19 premium wages for missed or interrupted meal and rest breaks, and that they were not  
20 receiving code compliant meal and rest breaks or premium wages as compensation.

21           18. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
22 knew or should have known that Plaintiff and the other class members were entitled to receive  
23 all wages owed to them upon discharge or resignation.

24           19. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
25 knew or should have known that Plaintiff and the other class members were entitled to receive  
26 complete and accurate wage statements in accordance with California law.

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- 1           29.    Plaintiff reserves the right to establish other subclasses as appropriate.
- 2           30.    The class is ascertainable and there is a well-defined community of interest in  
3 the litigation:
- 4           a.    The class members are so numerous that joinder of all class members is  
5 impracticable. The membership of the entire class is unknown to Plaintiff at  
6 this time; however, the class is estimated to be more than (50) individuals and  
7 the identity of such membership is readily ascertainable by inspection of  
8 Defendants' employment records.
- 9           b.    Plaintiff's claims are typical of all other class members' as demonstrated herein.  
10 Plaintiff will fairly and adequately protect the interests of the other class  
11 members with whom he has a well-defined community of interest.
- 12           c.    Plaintiff will fairly and adequately protect the interests of each class member,  
13 with whom he has a well-defined community of interest and typicality of claims,  
14 as demonstrated herein. Plaintiff has no interest that is antagonistic to the other  
15 class members. Plaintiff's attorneys, the proposed class counsel, are versed in  
16 the rules governing class action discovery, certification, and settlement.
- 17           d.    Plaintiff has incurred, and during the pendency of this action will continue to  
18 incur, costs and attorneys' fees, that have been, are, and will be necessarily  
19 expended for the prosecution of this action for the substantial benefit of each  
20 class member.
- 21           e.    A class action is superior to other available methods for the fair and efficient  
22 adjudication of this litigation because individual joinder of all class members is  
23 impractical.
- 24           f.    Certification of this lawsuit as a class action will advance public policy  
25 objectives. Employers of this great state violate employment and labor laws  
26 every day. Current employees are often afraid to assert their rights out of fear of  
27 direct or indirect retaliation. However, class actions provide the class members  
28 who are not named in the complaint anonymity that allows for the vindication of

1                   their rights.

2           31.     There are common questions of law and fact as to the class members that  
3 predominate over questions affecting only individual members. The following common  
4 questions of law or fact, among others, exists as to the members of the class:

- 5           a.     Whether Defendants’ California-based salaried territory managers were  
6                   classified as “exempt” in violation of California law;
- 7           b.     Whether Defendants’ failure to pay wages, without abatement or reduction, in  
8                   accordance with the California labor Code, was willful;
- 9           c.     Whether Defendants required Plaintiff and the other class members to work over  
10                  eight (8) hours per day and/or over forty (40) hours per week and failed to pay  
11                  the legally required overtime compensation to Plaintiff and the other class  
12                  members;
- 13          d.     Whether Defendants failed to pay Plaintiff and the other class members for all  
14                  hours worked;
- 15          e.     Whether Defendants failed to pay Plaintiff and other class members minimum  
16                  wage;
- 17          f.     Whether Defendants complied with wage reporting as required by the California  
18                  Labor Code; including, but not limited to, Section 226;
- 19          g.     Whether Defendants’ conduct was willful or reckless; and
- 20          h.     Whether Defendants engaged in unfair business practices in violation of  
21                  California Business & Professions Code sections 17200 et seq.;

22          32.     At all times herein set forth, PAGA was applicable to Plaintiff’s employment by  
23 Defendants.

24          33.     At all times herein set forth, PAGA provides that any provision of law under the  
25 California Labor Code that provides for a civil penalty and wages to be assessed and collected  
26 by the LWDA for violations of the California Labor Code may, as an alternative, be recovered  
27 through a civil action brought by an aggrieved employee on behalf of himself and other current  
28 or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

1           34. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved  
2 employee,” who is any person that was employed by the alleged violator and against whom  
3 one or more of the alleged violations was committed.

4           35. Plaintiff was employed by Defendants and the alleged violations were  
5 committed against them during their time of employment and they are, therefore, aggrieved  
6 employees. Plaintiff and the other employees are “aggrieved employees” as defined by  
7 California Labor Code section 2699(c) in that they are all current or former employees of  
8 Defendants, and one or more of the alleged violations were committed against them.

9           36. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved  
10 employee, including Plaintiff, may pursue a civil action arising under PAGA after the  
11 following requirements have been met:

12           a. The aggrieved employee shall give written notice by certified mail (hereinafter  
13 “Employee’s Notice”) to the LWDA and the employer of the specific provisions  
14 of the California Labor Code alleged to have been violated, including the facts  
15 and theories to support the alleged violations.

16           b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer  
17 and the aggrieved employee by certified mail that it does not intend to  
18 investigate the alleged violation within sixty (60) calendar days of the postmark  
19 date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the  
20 LWDA Notice is not provided within sixty-five (65) calendar days of the  
21 postmark date of the Employee’s Notice, the aggrieved employee may  
22 commence a civil action pursuant to California Labor Code section 2699 to  
23 recover civil penalties in addition to any other penalties to which the employee  
24 may be entitled.

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1           42.       The applicable IWC Wage Order further provides that Defendants are and were  
2 required to pay Plaintiff and the other class members overtime compensation at a rate of two  
3 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

4           43.       Pursuant to California Labor Code section 510, any work in excess of eight  
5 hours in one workday and any work in excess of 40 hours in any one workweek and the first  
6 eight hours worked on the seventh day of work in any one workweek shall be compensated at  
7 the rate of no less than one and one-half times the regular rate of pay for an employee. Any  
8 work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the  
9 regular rate of pay for an employee. In addition, any work in excess of eight hours on any  
10 seventh day of a workweek shall be compensated at the rate of no less than twice the regular  
11 rate of pay of an employee.

12           44.       Pursuant to California Labor Code section 510, Plaintiff and the other class  
13 members are entitled to overtime compensation at one-and-one-half times the regular hourly  
14 rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for  
15 the first eight (8) hours worked on the seventh day of work, and to overtime compensation at  
16 twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in  
17 excess of eight (8) hours in a day on the seventh day of work.

18           45.       During the relevant time period, Plaintiff and the other class members worked  
19 in excess of eight (8) hours in a day.

20           46.       During the relevant time period, Plaintiff and the other class members worked  
21 in excess of forty (40) hours in a week.

22           47.       During the relevant time period, Plaintiff and the other class members were  
23 subject to Defendants' control and were not compensated for all hours subject to Defendants'  
24 control.

25           48.       During the relevant time period, Defendants failed to pay minimum wage to  
26 Plaintiff and the other class members as required, pursuant to California Labor Code sections  
27 1194 and 1197.

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1 consent of both the employer and employee.

2 56. Pursuant to California Labor Code section 512(a), an employer may not  
3 employ an employee for a work period of more than 10 hours per day without providing the  
4 employee with a second meal period of not less than 30 minutes, except that if the total hours  
5 worked is no more than 12 hours, the second meal period may be waived by mutual consent of  
6 the employer and the employee only if the first meal period was not waived.

7 57. As alleged herein, Defendants routinely interrupted and/or failed to permit,  
8 authorize and/or provide Plaintiff's and class members' meal breaks. By these actions,  
9 Defendants violated California Labor Code sections 226.7(a) and 512(a), and is liable to  
10 Plaintiff and the other class members.

11 58. During the relevant time period, Plaintiff and the other class members who  
12 were scheduled to work for a period of time in excess of six (6) hours were required to work  
13 for a period of time in excess of six (6) hours, and were required to work for periods longer  
14 than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

15 59. During the relevant time period, Plaintiff and the other class members who  
16 were scheduled to work in excess of ten (10) hours but not longer than twelve (12) hours, and  
17 who did not waive their legally-mandated meal periods by mutual consent were required to  
18 work in excess of ten (10) hours without receiving a second uninterrupted meal period of not  
19 less than thirty (30) minutes.

20 60. During the relevant time period, Defendants intentionally and willfully required  
21 Plaintiff and the other class members to work during meal periods and failed to pay Plaintiff  
22 and the other class members the full meal period premium for work performed during meal  
23 periods.

24 61. Defendants' conduct violates applicable Industrial Welfare Commission Wage  
25 Orders, and California Labor Code sections 226.7 and 512(a).

26 62. Pursuant to California Labor Code section 226.7(b), Plaintiff and the other  
27 class members are entitled to recover from Defendants one additional hour of pay at the  
28 employee's regular rate of compensation for each work day that the meal is not provided.

1 **THIRD CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 226.7)**

3 **(Against ROYAL CUP, INC. and DOES 1 through 100)**

4 63. Plaintiff incorporates by reference the allegations contained in paragraphs 1  
5 through 62, and each and every part thereof with the same force and effect as though fully set  
6 forth herein.

7 64. At all times herein set forth, the applicable IWC Wage Order and California  
8 Labor Code section 226.7 were applicable to Plaintiff's and the other class members'  
9 employment by Defendants.

10 65. At all relevant times, California Labor Code section 226.7 provides that no  
11 employer shall require an employee to work during any rest period mandated by an applicable  
12 order of the California IWC.

13 66. At all relevant times, the applicable IWC Wage Order provides that "[e]very  
14 employer shall authorize and permit all employees to take rest periods, which insofar as  
15 practicable shall be in the middle of each work period" and that the "rest period time shall be  
16 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)  
17 hours or major fraction thereof" unless the total daily work time is less than three and one-half  
18 (3 ½) hours.

19 67. During the relevant time period, Defendants required Plaintiff and other class  
20 members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest  
21 period per each four (4) hour period worked.

22 68. During the relevant time period, Defendants willfully required Plaintiff and the  
23 other class members to work during rest periods and failed to pay Plaintiff and the other class  
24 members the full rest period premium for work performed during rest periods.

25 69. During the relevant time period, Defendants failed to pay Plaintiff and the other  
26 class members the full rest period premium due pursuant to California Labor Code section 226.7

27 70. Defendants' conduct violates applicable IWC Wage Orders and California  
28 Labor Code section 226.7.









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**Failure to Provide Complete and Accurate Wage Statements**

87. Defendants’ failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

**Failure to Keep Complete and Accurate Payroll Records**

88. Defendants’ failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

89. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, request and are entitled to recover from Defendants and each of them, unpaid wages, according to proof, interest, attorneys’ fees and costs pursuant to California Labor Code sections, 558 and 1194, as well as all civil penalties against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11070 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

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1 d. Any and all additional penalties and sums as provided by the California Labor  
2 Code and/or other statutes.

3 90. Pursuant to California Labor Code section 2699(i), civil penalties recovered by  
4 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor  
5 and Workforce Development Agency for the enforcement of labor laws and education of  
6 employers and employees about their rights and responsibilities and twenty-five percent (25%)  
7 to the aggrieved employees.

8 91. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and  
9 costs pursuant to California Labor Code sections 2699, 1194, 558, and 210.

10 **SIXTH CAUSE OF ACTION**

11 **(Violation of California Business & Professions Code § 17200 et seq.)**

12 **(Against ROYAL CUP, INC. and DOES 1 through 100)**

13 92. Plaintiff incorporates by reference the allegations contained in paragraphs 1  
14 through 91, and each and every part thereof with the same force and effect as though fully set  
15 forth herein.

16 93. Defendants' conduct, as alleged in this complaint, has been, and continues to  
17 be, unfair, unlawful and harmful to Plaintiff and the other class members, and Defendants'  
18 competitors. Accordingly, Plaintiff and the other class members seek to enforce important  
19 rights affecting the public interest within the meaning of Code of Civil Procedure section  
20 1021.5.

21 94. Defendants' activities as alleged herein are violations of California law, and  
22 constitute unlawful business acts and practices in violation of California Business &  
23 Professions Code section 17200 et seq.

24 95. A violation of California Business & Professions Code section 17200 et seq.  
25 may be predicated on the violation of any state or federal law. As described herein,  
26 Defendants violated California Labor Code sections 201, 202, 203, 226(a), 226.7, 510, 512(a),  
27 558, 1194, and 1198.

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1 4. That Defendants provide to class counsel, immediately upon its appointment,  
2 the names and most current contact information (address and telephone numbers) of all class  
3 members.

4 As to the First Cause of Action

5 5. For general unpaid wages at overtime wage rates, minimum wage rates and  
6 such general and special damages as may be appropriate;

7 6. For pre-judgment interest on any unpaid overtime compensation commencing  
8 from the date such amounts were due;

9 7. For the imposition of statutory penalties;

10 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to  
11 statute;

12 9. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and  
13 (g) plus costs and attorneys' fees for violation of California Labor Code sections 510, 1194,  
14 1197, 1197.1 and 1198; and

15 10. For such other and further relief as the court may deem just and proper.

16 As to the Second Cause of Action

17 11. For general unpaid premium wages and such general and special damages as  
18 may be appropriate;

19 12. For pre-judgment interest on any unpaid premium wages commencing from the  
20 date such amounts were due;

21 13. For the imposition of statutory penalties;

22 14. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and  
23 (g) plus costs and attorneys' fees for violation of California Labor Code sections 226.7 and  
24 512; and

25 15. For reasonable attorneys' fees and costs of suit incurred herein pursuant to  
26 statute; and

27 16. For such other and further relief as the court may deem just and proper.

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1 As to the Third Cause of Action

2 17. For general unpaid premium wages and such general and special damages as  
3 may be appropriate;

4 18. For pre-judgment interest on any unpaid premium wages commencing from the  
5 date such amounts were due;

6 19. For the imposition of statutory penalties;

7 20. For reasonable attorneys' fees and costs of suit incurred herein pursuant to  
8 statute;

9 21. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and  
10 (g) plus costs and attorneys' fees for violation of California Labor Code section 226.7; and

11 22. For such other and further relief as the court may deem just and proper.

12 As to the Fourth Cause of Action

13 23. For actual, consequential and incidental losses and damages, according to  
14 proof;

15 24. For statutory penalties pursuant to California Labor Code section 226(e);

16 25. For injunctive relief to ensure compliance with this section, pursuant to  
17 California Labor Code section 226(g);

18 26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to  
19 California Labor Code section 226(e);

20 27. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and  
21 (g) plus costs and attorneys' fees for violation of California Labor Code sections 226(a); and

22 28. For such other and further relief as the court may deem just and proper.

23 As to the Fifth Cause of Action

24 29. For civil penalties and wages pursuant to California Labor Code sections 558,  
25 2699(a), (f) and (g) plus costs and attorneys' fees for violation of California Labor Code  
26 sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 558, 1197, 1197.1 and 1198; and

27 30. For such other and further relief as the Court may deem equitable and  
28 appropriate.

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As to the Sixth Cause of Action

31. For restitution of unpaid wages and other monies wrongfully withheld and retained by Defendants to Plaintiff and the other class members and prejudgment interest from the day such amount were due and payable;

32. For reasonable attorneys' fees and costs of suit incurred herein that Plaintiff and the other class members are entitled to recover under California Code of Civil Procedure section 1021.5.

33. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code section 17200 et seq.; and

34. For such other and further relief as the court may deem just and proper.

Dated: January 7, 2019

**JUSTICE LAW CORPORATION**

By: 

Douglas Han  
*Attorneys for Plaintiff*