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7 on behalf of herself and similarly situated employees  
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11 **SUPERIOR COURT OF CALIFORNIA**  
12 **FOR THE COUNTY OF SACRAMENTO**

13 \_\_\_\_\_ )  
14 ELIZABETH COCKER, individually and )  
15 on behalf of all others similarly situated, )

16 Plaintiffs, )

17 vs. )

18 SOUTHWEST AIRLINES, CO.; Does 1 )  
19 through 20, inclusive, )

20 Defendants. )  
21 )  
22 )  
23 \_\_\_\_\_ )

Case No.

**CLASS ACTION**

**COMPLAINT FOR DAMAGES:**

1. Failure to Compensate Missed Meal and Rest Periods at the Regular Rate of Compensation;
2. Failure to Pay Overtime Wages at the Regular Rate of Pay;
3. Failure to Provide Accurate Wage Statements;
4. Violation of UCL (Business & Professions Code § 17200 *et seq.*)

**JURY TRIAL DEMANDED**

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**07/15/2021**  
apenn  
By \_\_\_\_\_, Deputy  
Case Number:  
**34-2021-00304431**

1 Plaintiff ELIZABETH COCKER ("Plaintiff"), on behalf of herself and all other similarly  
2 situated employees hereby files this Complaint against Defendants SOUTHWEST AIRLINES CO.;  
3 Does 1 through 20 (collectively referred to as "Defendants"). Plaintiff alleges the following:

4 **INTRODUCTION**

5 1. This is a class action brought by Plaintiff seeking damages for failure to pay meal and  
6 rest periods at the correct regular rate of compensation, failure to pay overtime wages at the correct  
7 regular rate of pay, inaccurate wage statements, and derivative civil and statutory penalties. Plaintiff  
8 seeks these damages and penalties, plus interest and attorney's fees, on behalf of herself and  
9 similarly situated employees.

10 **JURISDICTION AND VENUE**

11 2. The Sacramento County Superior Court has jurisdiction in this matter due to alleged  
12 violations of California Labor Code §§ 226, 226.3, 213, 2698 *et seq.*, Business and Professions Code  
13 § 17200 *et seq.*

14 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some  
15 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.

16 **PARTIES**

17 4. Plaintiff ELIZABETH COCKER is over the age of eighteen (18) and is a resident of  
18 the State of California and a current employee of Defendants.

19 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
20 SOUTHWEST AIRLINES CO. is now and/or at all times mentioned in this Complaint a Texas  
21 Corporation and the owner and operator of an industry, business and/or facility licensed to do  
22 business and actually doing business in the State of California.

23 6. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly  
24 and severally, have acted with deliberate indifference and conscious disregard to the rights of all  
25 employees. Plaintiff is further informed and believes, and based thereon alleges, that Defendants  
26 were at all relevant times advised by skilled California employment law attorneys and knew the  
27 requirements of the California Labor Code with respect to employee wage statements, payment of  
28 wages, and provision of meal and rest period premiums.

7. Defendants proximately caused Plaintiff and similarly situated employees to be subjected to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this Complaint.

8. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or joint venturer of the remaining defendants and was acting within the course and scope of that relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the remaining defendants. The true names and capacities of the defendants named herein Does 1 through 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will amend this complaint to show such true names and capacities of Does 1 through 20, inclusive, when they have been determined.

## CLASS ALLEGATIONS

9. Plaintiff brings this action, on behalf of herself and all others similarly situated, as a class action pursuant to California Code of Civil Procedure section 382. The classes that Plaintiff seeks to represent are composed of and defined as follows:

- (a) All non-exempt employees who were employed by Defendants in California, and who were paid a missed meal or rest break premium at less than the regular rate of compensation, at any time four (4) years prior to the filing of this Action to the date that this matter is certified as a class action. (“Premium Miscalculation Subclass”)
- (b) All non-exempt employees who were employed by Defendants in California, and who were paid overtime or double time wages at a multiple of less than the regular rate of pay, at any time four (4) years prior to the filing of this Action to the date that this matter is certified as a class action. (“Overtime Miscalculation Subclass”)

10. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interest in the litigation and the proposed classes are easily ascertainable.

- 1 (a) Numerosity: The Plaintiff Classes are so numerous that the individual joinder of all  
2 members is impracticable under the circumstances of this case. While the exact  
3 number of class members is unknown to Plaintiffs at this time, Plaintiff is informed  
4 and believes that Defendants may have employed hundreds of individuals falling  
5 within the above stated class definitions throughout the State of California during the  
6 applicable statute of limitations, who were subjected to the practices outlined in this  
7 Complaint. As such, joinder of all members of the Plaintiff Classes is not practicable.
- 8 (b) Common Questions Predominate: Common questions of law and fact exist as to all  
9 members of the Plaintiff Classes and predominate over questions that affect only  
10 individual members of the class. These common questions of law and fact include,  
11 without limitation, the following:
- 12 (1) Whether Defendants provided missed meal and rest period premiums  
13 at the regular rate of compensation as required under the California  
14 Labor Code;
- 15 (2) Whether Defendants used the regular rate of pay to calculate overtime  
16 and double time as required under the California Labor Code;
- 17 (3) Whether Defendants accurately stated all required information on  
18 paystubs issued to members of the Plaintiff Class;
- 19 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the Plaintiff  
20 Classes. Plaintiff also sustained damages arising out of Defendants' common course  
21 of conduct in violation of the law as complained of herein. Defendants failed to  
22 provide accurate meal and rest period premiums to their employees, failed to pay all  
23 overtime and minimum wages owed, and issued Plaintiff and all members of the  
24 putative class wage statements that did not comply with Labor Code section 226. As  
25 a result, each putative class member will have the same basis for their legal claims.
- 26 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of  
27 the putative classes. Plaintiff resides in California and is an adequate representative  
28 of the putative class as he has no interests that are adverse to those of absent class

1 members. Additionally, Plaintiff has retained counsel who have substantial  
2 experience in complex civil litigation and wage and hour matters.

3 (e) Superiority: A class action is superior to other available means for the fair and  
4 efficient adjudication of the controversy since individual joinder of all members of  
5 the classes is impracticable. Class action treatment will permit a larger number of  
6 similarly situated persons to prosecute their common claims in a single forum  
7 simultaneously, efficiently, and without the unnecessary duplication of effort and  
8 expense that numerous individual actions would engender. Further, as damages  
9 suffered by each individual member of the classes may be relatively small, the  
10 expenses and burden of the individual litigation would make it difficult or impossible  
11 for individual members of the class to redress the wrongs done to them, and an  
12 important public interest will be served by addressing the matter as a class action.  
13 The cost to the court system of adjudication of such individualized litigation would be  
14 substantial. Individualized litigation would also present the potential for inconsistent  
15 or contradictory judgments.

16 11. Plaintiff is unaware of any difficulties that are likely to be encountered in the  
17 management of this action that would preclude its maintenance as a class action.

#### 18 GENERAL ALLEGATIONS

19 12. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 11 as though  
20 fully set forth herein.

21 13. Plaintiff was at all times classified by Defendants as non-exempt employee, and was  
22 entitled to overtime pay and meal and rest periods. However, Defendants failed to provide meal and  
23 rest period premiums at the regular rate of compensation to Plaintiff and similarly situated  
24 employees, failed to pay all overtime wages owed at the correct rates, and issues non-compliant  
25 wage statements.

26 14. Plaintiff brings this Class Action on behalf of herself and similarly situated  
27 employees in order to fully compensate herself and Class Members for their losses incurred during  
28

22. Labor Code section 510 and Wage Order 2-2001, section 11(A) require an employer to provide a meal period of not less than thirty (30) minutes for each work period of more than five (5) hours. If an employee works longer than ten (10) hours in a workday, the employer must provide a second meal period.

23. Labor Code section 510 and Wage Order 2-2001 section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

24. Plaintiff alleges that Defendants failed to provide Plaintiff and similarly situated employees with meal breaks of at least thirty (30) minutes for several work periods that Plaintiff and similarly situated employees worked more than five (5) hours in a day, or to take a second meal break of at least thirty (30) minutes for several work periods that Plaintiff and similarly situated employees worked more than ten (10) hours in a day.

25. Plaintiff further alleges that Defendants failed to provide rest breaks of at least ten (10) minutes for each work period that she and similarly situated employees worked for four (4) hours or major fraction thereof.

26. As a proximate cause of Defendants' failure to provide meal and rest periods, Plaintiffs and members of the Class are entitled to one (1) hour of pay at the regular rate of compensation for each meal period or rest period not provided, as a wage, from three (3) years of the filing of this action, in an amount to be established at trial. *See* Labor Code § 226.7 and Wage Order 2-2001 §§ 11(B), 12(B).

**SECOND CAUSE OF ACTION**  
**Failure to Pay Overtime Wages at the Regular Rate of Pay**

27. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 26 as though fully set forth herein.

28. During the period Plaintiff and similarly situated employees were employed by Defendants, Defendants were required to compensate them one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day.

1 See California Labor Code §§ 510, 1194. Although Plaintiff and similarly situated employees  
2 regularly worked in excess of eight (8) hours a day and/or forty (40) hours per week, Defendants  
3 failed to pay all overtime wages owed to them because they did not pay overtime at the correct rate  
4 of pay.

5 29. Plaintiff and Class members were non-exempt employees under the administrative,  
6 executive, or professional exemptions of the applicable Wage Order and California Labor Code  
7 section 510.

8 30. Defendants' conduct described herein violates California Labor Code sections 510  
9 and 1194, and Wage Orders. As a proximate result of Defendants' conduct, Plaintiff and Class  
10 members have been damaged and deprived of overtime wages, in an amount to be established at  
11 trial. Plaintiff now seeks these wages, attorney's fees and costs, and interest pursuant to California  
12 Labor Code sections 1194.

13 **THIRD CAUSE OF ACTION**  
14 **Failure To Provide Accurate Wage Statements**

15 31. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 30 as though  
16 fully set forth herein.

17 32. According to Labor Code section 226(a), an employer must provide an itemized  
18 statement to an employee, semi-monthly or at the time of each payment of wages, showing:

19 *(1) gross wages earned, (2) total hours worked by the employee, except for*  
20 *any employee whose compensation is solely based on a salary and who is*  
21 *exempt from payment of overtime under subdivision (a) of Section 515 or*  
22 *any applicable order of the Industrial Welfare Commission, (3) the number*  
23 *of piece-rate units earned and any applicable piece rate if the employee is*  
24 *paid on a piece-rate basis, (4) all deductions, provided that all deductions*  
25 *made on written orders of the employee may be aggregated and shown as*  
26 *one item, (5) net wages earned, (6) the inclusive dates of the period for*  
27 *which the employee is paid, (7) the name of the employee and the last four*  
28 *digits of his or her social security number or an employee identification*  
*number other than a social security number, (8) the name and address of*  
*the legal entity that is the employer and, if the employer is a farm labor*  
*contractor, as defined in subdivision (b) of Section 1682, the name and*  
*address of the legal entity that secured the services of the employer, and (9)*  
*all applicable hourly rates in effect during the pay period and the*

1        *corresponding number of hours worked at each hourly rate by the*  
2        *employee. The deductions made from payment of wages shall be recorded*  
3        *in ink or other indelible form, properly dated, showing the month, day, and*  
4        *year, and a copy of the statement and the record of the deductions shall be*  
5        *kept on file by the employer for at least three years at the place of*  
6        *employment or at a central location within the State of California.*

7        33. Defendants failed to provide an itemized statement or failed to provide an accurate  
8        and complete itemized statement showing the requirements set forth in Labor Code section 226(a).  
9        Defendants failed to list on the wage statements provided to Plaintiff and similarly situated  
10       employees wage statements listing all hour worked and the applicable rates of pay and overtime rate.  
11       Plaintiff alleges that Defendants failed to provide accurate itemized wage statements in accordance  
12       with Labor Code section 226(a) to all members of the Overtime Miscalculation Sub-class.

13       34. Additionally, Plaintiff alleges he suffered injury as a result of Defendants' knowing  
14       and intentional failure to provide accurate and complete information as required by any one or more  
15       of items (1) to (9), inclusive, of Labor Code section 226, subdivision (a), and Plaintiff cannot  
16       promptly and easily determine (*i.e.* a reasonable person in each Plaintiff's position would not be able  
17       to readily ascertain the information without reference to other documents or information) from the  
18       wage statement alone. Cal. Lab Code § 226(e)(2)(B)(iv).

19       35. As a proximate cause of Defendants' failure to provide accurate statements, Plaintiff  
20       and Class Members were damaged and are entitled to statutory and civil penalties under the Labor  
21       Code, and attorney's fees and costs, in an amount to be proven at trial.

#### 22       **FOURTH CAUSE OF ACTION**

##### 23       **Unfair Competition**

24       36. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 35 as though  
25       fully set forth herein.

26       37. Unfair competition shall mean and include any unlawful, unfair or fraudulent  
27       business act or practice and unfair, deceptive, untrue or misleading advertising and any act  
28       prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business  
and Professions Code. *See* Cal. Bus. and Prof. Code §§ 17200 *et seq.*

38. Defendants committed numerous violations of the California Labor Code throughout  
the employment relationship.

39. Plaintiff is also informed and believes and thereon alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code section 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

40. As a direct and legal result of Defendant's conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution as a result of its unfair business practices, including, but not limited to, public injunctive relief, pursuant to B&P Code § 17203, and interest and penalties pursuant to B&P §§ 17203, 17208, violations of Labor Code §§ 1194, 226, and 226.7, all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

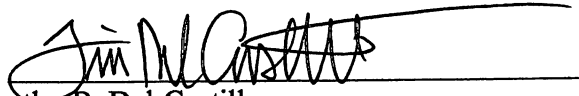
**DAMAGES**

**WHEREFORE** Plaintiff requests relief as follows:

1. A jury trial;
2. For an order certifying the class and sub-classes;
3. For an order certifying Plaintiff's counsel as class counsel;
4. For an order appointing Plaintiff as class representative;
5. For penalties and liquidated damages under the California Labor Code according to proof allowed by law;
6. For compensatory damages, including, but not limited to, unpaid wages, plus interest, according to proof allowed by law;
7. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees;
8. For injunctive relief;
9. For an award of prejudgment and post-judgment interest; and
10. For an award to Plaintiff of such other and further relief as the Court deems just and proper.

1 Dated: July 15, 2021

Castle Law: California Employment Counsel, PC

2  
3 By: 

4 Timothy B. Del Castillo

5 Kent L. Bradbury

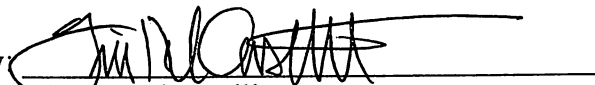
6 Attorneys for Plaintiff ELIZABETH COCKER and the  
7 Class  
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**JURY TRIAL DEMAND**

Plaintiff hereby demands a trial by jury.

Dated: July 15, 2021

**Castle Law: California Employment Counsel, PC**

By:   
Timothy B. Del Castillo  
Kent L. Bradbury  
Attorneys for Plaintiff ELIZABETH COCKER and the  
Class