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 GINA BERRETT

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 10 **COUNTY OF LOS ANGELES**

12 GINA BERRETT, an individual,	) Case No. 20STCV14281
	)
13 Plaintiff,	) REPRESENTATIVE ACTION
	)
14 v.	) COMPLAINT FOR VIOLATIONS OF
	) THE PRIVATE ATTORNEYS GENERAL
15 SYNCSTORIES, a California corporation; ERIC	) ACT OF 2004 (Labor Code Section 2698 et
16 VASQUEZ, an individual; and DOES 1-25,	) seq.)
inclusive,	)
	) DEMAND FOR JURY TRIAL
17 Defendant.	)
	)

18
 19 COMES NOW Plaintiff GINA BERRETT, in her representative capacity, with her
 20 Complaint against Defendants SYNCSTORIES, a California corporation, ERIC VASQUEZ, an
 21 individual and DOES 1 through 25 inclusive, and hereby alleges as follows:

22 **JURISDICTION AND VENUE**

23 1. The California Superior Court has jurisdiction over this action pursuant to California
 24 Constitution Article VI, Section 10, which grants the Superior Court "original jurisdiction in all
 25 causes except those given by statute to other trial courts." The Statutes under which this action is
 26 brought do not specify any other basis for jurisdiction.

27 2. Venue and jurisdiction are proper because Defendants were doing business in Los
 28 Angeles County; Plaintiff's employment was entered into in Los Angeles County; Plaintiff worked



1 for Defendants in Los Angeles County; and the damages sought exceed the jurisdictional minimum
2 of this Court.

3 **THE PARTIES**

4 3. Plaintiff GINA BERRETT (“Plaintiff”) was at all relevant times herein, an
5 individual residing in Los Angeles County, California and was employed by Defendants
6 SYNCSTORIES, ERIC VASQUEZ, and DOES 1 through 25 inclusive.

7 4. Plaintiff is informed, believes, and thereon alleges that Defendant SYNCSTORIES
8 (“SYNCSTORIES”) is, and at all times mentioned herein was, a business organized under
9 California laws registered to do business and actively doing business in the State of California, with
10 its principal place of business in Los Angeles, California. At all times hereinafter mentioned,
11 Defendant SYNCSTORIES was an employer whose employees were engaged in this county and
12 the State of California.

13 5. The true names and capacities, whether individual, corporate, partnership, associate,
14 or otherwise, of Defendants sued herein as DOES 1 through 25, inclusive, are currently unknown to
15 Plaintiff, who therefore sues said Defendants by fictitious names. Plaintiff is informed, believes,
16 and thereon alleges that each of the Defendants designed herein as DOE is legally responsible in
17 some manner for the events and happenings referred to herein, and caused injury and damage
18 proximately thereby to Plaintiff as hereinafter alleged. Plaintiff will seek leave of court to amend
19 this Complaint to show the true names and capacities of the Defendants designated herein as DOES
20 when the same have been ascertained. Whenever in this Complaint reference is made to
21 “Defendants,” such allegation shall be deemed to mean the acts of Defendants acting individually,
22 jointly, or severally.

23 6. Plaintiff is informed, believes, and thereon alleges that Defendants were her
24 “Employer” as that term is defined in the applicable Wage Order of the Industrial Welfare
25 Commission (“IWC”). Plaintiff is informed and believes and thereon alleges that, at all relevant
26 times mentioned herein, Defendants were Plaintiff’s employer.



1 **JOINT LIABILITY**

2 7. Except as hereinafter specially described, Defendants, and each of them, are and
3 were the agents and/or employees of the other Defendants, and in acting as described herein were
4 acting within the scope of their authority or employment as agents and/or employees thereof, and
5 with the permission and consent of the other Defendants.

6 8. As to each of the Defendants, Plaintiff is informed, believes, and thereon alleges
7 that, at all relevant times mentioned herein, each Defendant was the principal, agent, employer,
8 employee, partner, joint venture, officer, director, controlling shareholder, alter ego, subsidiary,
9 affiliate, parent corporation, successor in interest and predecessor in interest of some or all of the
10 other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise
11 for profit, and bore such other relationships to some or all of the other Defendants, so as to be liable
12 for the conduct of them.

13 9. Plaintiff is further informed, believes, and thereon alleges that each Defendant acted
14 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
15 should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the
16 conduct of all other Defendants; and that each Defendant acted pursuant to a conspiracy and
17 agreement to do the things alleged herein.

18 **GENERAL BACKGROUND FACTS**

19 10. SYNCSTORIES is a music licensing and publishing company.

20 11. Plaintiff worked for Defendants as a music coordinator and asset manager from on
21 or about February 1, 2018 until she was terminated on or about August 21, 2019.

22 12. Throughout Plaintiff's employment, Defendants misclassified Plaintiff as an exempt
23 employee. When Plaintiff was originally hired, VASQUEZ represented to her that she would work
24 in the capacity as a music coordinator to source music for various movie and television commercial
25 clients. In actuality, Plaintiff's primary job duty was to solely input data about hundreds of songs
26 into Excel spread sheets and catalog each song.

27 13. Plaintiff's was paid an annual salary in the amount of \$48,000.00.

28 14. Plaintiff worked Monday to Friday from 9:00 a.m. to 6:30 p.m.



15. Throughout her employment with SYNCSTORIES, Plaintiff was paid bi-monthly.

16. On average, Plaintiff worked more than eight (8) hours per day, five (5) days a week. Plaintiff worked an average of 43 hours per week between April 2018 to December 2018; 46 hours per week between January 2019 to April 2019; and 43 hours per week between May 2019 to August 2019.

17. Ultimately, SYNCSTORIES failed to pay Plaintiff for any overtime hours worked.

18. Due to the vast amount of songs and clients that SYNCSTORIES had, Plaintiff had no option but to work through her meal periods and work late to make sure all data regarding the songs was recorded and documented by inputting hundreds of these data points into an Excel document.

19. Plaintiff, along with other employees of SYNCSTORIES, including, its Chief Executive Officer, VASQUEZ, worked remotely at home. Plaintiff was required to use her personal cellphone and laptop to complete work-related tasks and duties for SYNCSTORIES.

20. All work-related communications with VASQUEZ were through instant messaging.

21. Plaintiff is informed, believes, and based thereon alleges that SYNCSTORIES does not have a clock in and clock out policy. Instead, Plaintiff clocked in and clocked out of her shifts by instant messaging VASQUEZ to tell him that she was either reporting for work or done working for the day.

22. On numerous occasions, VASQUEZ messaged Plaintiff during her breaks and after she clocked out of her shift with work-related questions, requiring immediate attention and handling. Plaintiff frequently responded to these instant messages and would complete the requested tasks as instructed by VASQUEZ.

23. In addition to not properly compensating Plaintiff for overtime hours worked, SYNCSTORIES also unlawfully deducted Plaintiff's pay for the hours missed for pre-approved doctor's appointments.

24. Upon termination, SYNCSTORIES failed to pay Plaintiff all wages owed and accrued sick pay, and to date, SYNCSTORIES has not paid Plaintiff any wages and accrued sick pay owed.



25. Plaintiff is informed, believes, and based thereon alleges that VASQUEZ is aware of the provisions of the Labor Code and proper classification of workers, because SYNCSTORIES had, at all relevant times, a number of workers, such as administrative employees, who he classified as exempt employees.

26. Plaintiff is informed, believes, and based thereon alleges that VASQUEZ was aware of the provisions of the Labor Code and proper classification of workers, because it is well listed in SYNCSTORIES's Employee Handbook.

27. Plaintiff is informed, believes, and based thereon alleges that VASQUEZ, as a managing agent of Defendant who caused the provisions of the Labor Code and IWC Wage Order alleged herein to be violated, is subject to liability pursuant to Labor Code section 558.1.

28. To date, Plaintiff has not received her final paycheck.

29. Plaintiff brings this action pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698 *et seq.* on behalf of the State of California and on a representative basis on behalf of all California current and former employees of Defendants.

FIRST CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS

GENERAL ACT OF 2004 (“PAGA”)

(Labor Code § 2698 *et seq.*)

(Against All Defendants)

30. Plaintiff realleges and incorporate each preceding paragraph as though fully set forth herein.

31. California Labor Code sections 2698-2699.5, in relevant part, provides, “any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ... for a violation of this code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in section 2699.3.”

32. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action under PAGA only after giving notice to the Labor and Workforce Development Agency (“LWDA”) and



1 the employer of the Labor Code sections alleged to have been violation, and after receiving notice
2 from the LWDA of its intention not to investigate, or after 65 days have passed without notice.

3 33. To the extent applicable, Plaintiff has satisfied in full the requirements of Labor
4 Code section 2699.3. Plaintiff sent notice to SYNCSTORIES and the LWDA on or about January
5 15, 2020, detailing SYNCSTORIES and ERIC VAQUEZ's alleged Labor Code violations. In
6 particular, Plaintiff's notice alleged violations of Labor Code sections, 201, 203, 226.7, 226.8, 510,
7 512, 558, 1182.12, 1194, 1198, and 3357.

8 34. LWDA did not provide notice of its intention to investigate Defendants' alleged
9 violations within sixty-five (65) calendar days of the postmark date of Plaintiff's notice.

10 35. Plaintiff is an "aggrieved employee" under PAGA because she was employed by
11 Defendants during the applicable statutory period and suffered one or more of the Labor Code
12 violations set forth in this Complaint.

13 36. Plaintiff seeks to recover, on her behalf, on behalf of the State, and on behalf of all
14 former and current aggrieved employees of Defendants, the civil penalties provided by PAGA, plus
15 reasonable attorney's fees and costs through a representative action permitted by PAGA and the
16 California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Therefore, class
17 certification is not required.

18 37. Plaintiff seeks penalties pursuant to PAGA for the following Labor Code violations:

19 A. Failure to provide prompt payment of wages upon termination of employment in
20 violation of Labor Code section 203;

21 B. Failure to provide accurate itemized wage statements in violation of Labor Code
22 section 226;

23 C. Willfully misclassifying employees, including Plaintiff, as exempt and engaging
24 in pattern or practice of committing said unlawful acts, in violation of Labor Code section 226.8;

25 D. For failing to pay Plaintiffs and other misclassified employees, in violation of
26 Labor Code sections 226.7, and 512, and paragraph 11 of Wage Order 12-2001;

27 E. For failing to provide pay Plaintiff and other misclassified employees, overtime
28 compensation and other benefits in violation of Labor Code sections 510, 1194, and 1198;



1 F. For failing to pay Plaintiffs and other misclassified employees minimum wage,
2 in violation of Labor Code sections 1194 and 1182.12;

3 G. For failing to pay Plaintiff and other misclassified employees the additional hour
4 of compensation earned for every on-duty meal period, in violation of Labor Code section 226.7(b)
5 and paragraph 11 of Wage Order 12-2001;

6 H. For failing to authorize and/or permit required rest periods to Plaintiff and other
7 misclassified employees, in violation of Labor Code section 226.7 and paragraph 12 of Wage Order
8 12-2001;

9 I. For failing to pay Plaintiff and other misclassified employees the additional hour
10 of compensation earned for every shift that a mandated rest period was denied, in violation of
11 Labor Code section 226.7(b) and paragraph 12 of Wage Order 9-2001;

12 J. For failing to pay wages promptly following termination of employment, or
13 when and payable, in violation of Labor Code sections 201, 202, and 204; and

14 K. For failing to maintain for and provide to Plaintiff's and other misclassified
15 employees accurate, itemized wage statements required by Labor Code section 226.

16 38. With respect to violations of Labor Code § 203, Labor Code § 203 imposes a civil
17 penalty (apart from other penalties) equal to each employees' daily wages from the due date thereof
18 until paid or until an action therefor is commenced, up to thirty (30) days' wages per aggrieved
19 employee.

20 39. With respect to violations of Labor Code § 226, Labor Code § 2256(e) imposes a
21 civil penalty (apart from other penalties) of fifty dollars (\$50) for each initial violation for each
22 aggrieved employee and one hundred dollars (\$100) for each subsequent violation, up to an
23 aggregate penalty of four thousand dollars (\$4,000) per aggrieved employee.

24 40. Labor Code § 2699 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
25 pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay
26 period, per aggrieved employee for each subsequent violation for all Labor Code provisions for
27 which a civil penalty is not specifically provided



1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays, individually and on behalf of aggrieved employees,
3 judgment against Defendants, and each of them, as follows:

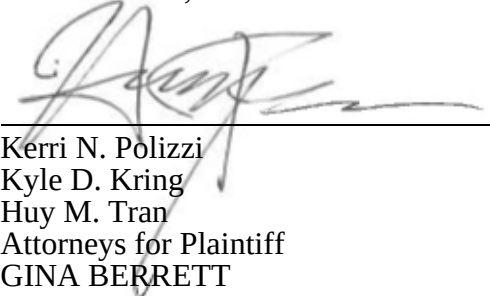
- 4 1. For an award of civil penalties pursuant to PAGA;
5 2. For an award of reasonable attorney's fees and costs pursuant to Labor Code section
6 2699(g) and/or other applicable law;
7 3. For pre-judgment and post-judgment interest as provided by law; and;
8 4. For such other and further relief as the Court deems just and proper.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.
11

12 Dated: April 10, 2020

KRING & CHUNG, LLP

13
14 By: 

15 Kerri N. Polizzi
16 Kyle D. Krings
17 Huy M. Tran
18 Attorneys for Plaintiff
19 GINA BERRETT
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