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Attorneys for Plaintiff Magdalena Ortiz, on behalf of herself and as representative for the State of California on behalf of all other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

MAGDALENA ORTIZ, on behalf of herself
and as representative for the State of
California on behalf of all other aggrieved
employees,

Plaintiffs,

v.

COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC, a Delaware Limited
Liability Company; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 20CV366442

**REPRESENTATIVE ACTION COMPLAINT
FOR CIVIL PENALTIES UNDER PRIVATE
ATTORNEYS GENERAL ACT ("PAGA")**

1. PAGA Civil Penalties for Failure to Pay Minimum, Regular, and Overtime Wages
2. PAGA Civil Penalties for Failure to Provide Meal Periods
3. PAGA Civil Penalties for Failure to Provide Rest Periods
4. PAGA Civil Penalties for Failure to Provide Accurate Itemized Wage Statements
5. PAGA Civil Penalties for Failure to Timely Pay All Wages Due During Employment
6. PAGA Civil Penalties for Failure to Timely Pay All Wages Due Upon Termination
7. PAGA Civil Penalties for Failure to Maintain Accurate Payroll Records

1 Plaintiff MAGDALENA ORTIZ, on behalf of herself and as representative for the State
2 of California on behalf of all other aggrieved employees, alleges:

3 **INTRODUCTION**

4 1. MAGDALENA ORTIZ (“Plaintiff”) brings this representative action against
5 COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC and DOES 1 through 10,
6 inclusive (“COMCAST” or “Defendants”) to recover civil penalties arising out of Defendants’
7 failure to provide all wages, meal and rest periods, or premium wages in lieu of those periods,
8 accurate wage statements, all final wages, and failure to maintain accurate payroll records.

9 2. Plaintiff gave notice of these claims to the California Labor and Workforce
10 Development Agency (“LWDA”) on February 24, 2020. There was no LWDA intervention
11 within 65 days of that notice, and no notice of cure by Defendants. Plaintiff is an aggrieved
12 employee with standing to bring a representative action on behalf of the State, the LWDA, and
13 as a private attorney general. Labor Code § 2699.3. (See **Exhibit 1.**)

14 3. Plaintiff asserts claims for civil penalties as a representative of the State of
15 California, as authorized by the Private Attorneys General Act (“PAGA”), and to the extent
16 permitted by law, on behalf of aggrieved employees who held the positions identified and
17 suffered one or more of the violations alleged. Labor Code §§ 2698, *et seq.* and 2699.3(a)(2)(C).

18 4. Plaintiff seeks to represent all current and former non-exempt Retail Sale
19 Professionals and Retail Sales Executives of Defendants who suffered one or more of the
20 alleged violations (“aggrieved employees”) during the period one year and 65 days before this
21 Complaint is filed until the start of trial in this matter (“PAGA Period”).

22 **JURISDICTION AND VENUE**

23 5. Venue as to each Defendant is proper in this judicial district. Code of Civil
24 Procedure § 395. Defendants conduct business and commit Labor Code violations which have a
25 direct effect on aggrieved employees in Santa Clara County and California, and each Defendant
26 or DOE is within California for service of process.

27 6. Plaintiff’s claims raise no federal question, and PAGA civil penalty actions are
28 not subject to federal jurisdiction.

PARTIES

7. MAGDALENA ORTIZ was hired by COMCAST as Retail Sales Consultant in April 2016, a position also referred to as Retail Sales Professional or Retail Sales Executive (“Sales Consultants”). She worked in the Sunnyvale, California store until August 2019.

8. Plaintiff is informed, believes, and alleges Defendant COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC is a Delaware Limited Liability Company and has conducted business, and employed Plaintiff and other aggrieved employees during the PAGA Period, in the County of Santa Clara and the State of California.

9. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued as DOES 1 through 10, inclusive, are unknown to Plaintiff, who sues Defendants by fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes, and alleges, each DOE Defendant is legally responsible in some manner for the unlawful acts alleged. Plaintiff will seek leave to amend this Complaint to reflect the true names and capacities of DOE Defendants when they become known.

10. Plaintiff is informed and believes each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, plan or policy, and the acts of each Defendant are legally attributable to the other Defendants.

GENERAL ALLEGATIONS

11. During the PAGA Period, Defendants employed Plaintiff and other aggrieved employees in Santa Clara County and in California as non-exempt Sales Consultants and committed the violations described below.

12. Responsibilities and duties of Plaintiff and other aggrieved employees include selling Comcast products and services to new customers and selling existing customers new or enhanced services.

13. Plaintiff and other aggrieved employees were paid hourly wages, commissions based on sales, and non-discretionary incentives and bonuses.

14. Plaintiff and other aggrieved employees frequently performed work before being able to clock in, such as straightening up and organizing the store before starting the day.

1 Plaintiff and other aggrieved employees also worked off the clock as the result of delays logging
2 into the computer system and loading the programs needed for work, as well as times when
3 passwords needed to be updated, usually every six weeks or as prompted by the system.

4 15. Defendants failed to include all forms of remuneration, including but not limited
5 to commissions, in the regular rate of pay for purposes of calculating the regular rate, and as a
6 result, underpaid overtime wages for Plaintiff and other aggrieved employees. For example, in
7 2019 wage statements, including a March 15, 2019 wage statement, commissions are not
8 correctly added to hourly wages to determine the regular rate and pay overtime wages. The
9 overtime rates in pay periods in which commissions are paid do not reflect the correct regular
10 rate and cannot be accurately calculated with the information provided on each wage statement.

11 16. The wage statements also include hours paid as vacation in total hours, adding to
12 the difficulty in determining how Comcast is calculating the regular rate of pay.

13 17. There is no indication in which pay period commissions are earned, so it cannot
14 be determined if they are paid often enough or in the correct pay periods.

15 18. Plaintiff and other aggrieved employees were scheduled for six-hour shifts to
16 include one rest period. In each shift in which Plaintiff or an aggrieved employee worked more
17 than six hours, a second 10-minute rest period was not authorized or permitted, and one hour of
18 premium wages were not provided in lieu of that rest period.

19 19. When Plaintiff and other aggrieved employees were not provided meal periods,
20 they were not paid one hour of pay at their regular rate of pay in lieu of that meal period
21 because Defendants failed to correctly calculate the regular rate of pay.

22 20. Defendants knowingly and willfully failed to provide accurate itemized wage
23 statements to Plaintiff and aggrieved employees, because they did not include, among other
24 things, all applicable hourly rates in effect during the pay period, such as the correct overtime
25 rate, and the corresponding number of hours worked at each hourly rate.

26 21. Defendants had a policy and practice of failing to timely pay Plaintiff and
27 aggrieved employees all wages owed during employment, and, as a result, failed to pay all
28 wages due upon separation of employment.

22. By forcing Plaintiff and aggrieved employees to work off the clock, Defendants did not keep required records showing daily hours worked and wages earned by Plaintiff and aggrieved employees.

23. Plaintiff, as a representative of general public and the State of California, seeks to invoke Labor Code section 1195.5: "The Division of Labor Standards Enforcement shall determine, upon request, whether the wages of employees, which exceed the minimum wages fixed by the commission, have been correctly computed and paid. For this purpose, the division may examine the books, reports, contracts, payrolls and other documents of the employer relative to the employment of employees. The division shall enforce the payment of any sums found, upon examination, to be due and unpaid to the employees."

24. Plaintiff, representing the general public and the State, seeks all penalties under Labor Code sections 2699(a) and (f)(2) for violations of Sections 201-204, 226, 226.3, 226.7, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 1197.1, in an amount according to proof, as to penalties otherwise only available in public agency enforcement actions. Recovered funds will be distributed in accordance with the PAGA - 75% of net penalties distributed to the LWDA and 25% distributed to aggrieved employees, subject to Court approval.

FIRST CAUSE OF ACTION
PAGA PENALTIES FOR FAILURE TO PAY MINIMUM, REGULAR,
AND OVERTIME WAGES
(AGAINST ALL DEFENDANTS)

25. Plaintiff incorporates the preceding paragraphs of this Complaint.

26. "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Labor Code § 1194(a).

27. "[A]ny provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an

1 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
2 himself or herself and other current or former employees pursuant to the procedures specified in
3 Section 2699.3.” Labor Code § 2699(a).

4 28. “For all provisions of this code except those for which a civil penalty is
5 specifically provided, there is established a civil penalty for a violation of these provisions []
6 (2) If, at the time of the alleged violation, the person employs one or more employees, the civil
7 penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
8 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
9 subsequent violation.” Labor Code § 2699(f)(2).

10 29. Section 2699.3(a) applies to any alleged violation of Labor Code sections 510,
11 1194, and 1194.1, and allows for recovery of PAGA civil penalties. Labor Code § 2699.5.

12 30. Defendants failed to pay minimum, regular, and overtime wages during the
13 PAGA Period. Plaintiff will seek \$100 for the initial pay period an employee was underpaid,
14 and \$200 for each subsequent violation.

15 31. Defendants’ conduct violates Wage Order 7-2001, by failing to pay minimum
16 wages to employees. Plaintiff will also seek \$50 for the initial pay period an employee was
17 underpaid, and \$100 for each subsequent violation.

18 **SECOND CAUSE OF ACTION**
19 **PAGA PENALTIES FOR FAILURE TO PROVIDE MEAL PERIODS**
20 **(AGAINST ALL DEFENDANTS)**

21 32. Plaintiff incorporates the preceding paragraphs of this Complaint.

22 33. By failing to provide duty-free meal periods of at least 30 minutes for shifts of
23 five hours or more, which began before the end of the fifth hour of work, and a second meal
24 period at least 30 minutes for shifts of ten hours or more, which began before the end of the
25 tenth hour of work, Defendants willfully violated Labor Code sections 226.7 and 512, and Wage
26 Order 7-2001.

27 34. By failing to pay employees one hour of pay at their regular rate of compensation
28 for each workday a meal period was not provided, Defendants willfully violated Labor Code
sections 226.7 and 512, and Wage Order 7-2001.

35. During the PAGA Period, Defendants failed to provide compliant meal periods. Plaintiff will seek civil penalties of \$100 for the initial pay period an employee was underpaid, and \$200 for each subsequent violation. Labor Code § 2699(f)(2).

THIRD CAUSE OF ACTION
PAGA PENALTIES FOR FAILURE TO PROVIDE REST PERIODS
(AGAINST ALL DEFENDANTS)

36. Plaintiff incorporates the preceding paragraphs of this Complaint.

37. By failing to authorize and permit Plaintiff a rest period of at least 10 minutes for every four (4) hours or major fraction thereof worked per day, Defendants willfully violated provisions of Labor Code section 226.7 and Wage Order No. 7-2001.

38. By failing to provide one hour of pay at their regular rate of compensation when rest periods were not permitted or authorized, Defendants willfully violated the provisions of Labor Code section 226.7 and Wage Order No. 7-2001.

39. During the applicable statutory period, Defendants failed to provide rest periods. Plaintiff will seek civil penalties of \$100 for the initial pay period an employee was underpaid, and \$200 for each subsequent violation. Labor Code § 2699(f)(2).

FOURTH CAUSE OF ACTION
PAGA PENALTIES FOR FAILURE TO PROVIDE
ACCURATE ITEMIZED WAGE STATEMENTS
(AGAINST ALL DEFENDANTS)

40. Plaintiff incorporates the preceding paragraphs of this Complaint.

41. Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized statement in writing showing, among other things, gross wages earned, total hours worked, net wages earned, and all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee. Labor Code § 226(a).

42. Defendants intentionally and willfully violated Section 226 by failing to provide wage statements which included information called for in Sections 226(a)(1) (2), (5) and (9).

43. Aggrieved employees are entitled to pursue civil penalties under the PAGA for violations of Labor Code section 226. Labor Code § 2699.5.

44. Labor Code section 226.3 provides for civil penalties for violations of Section 226. Plaintiff seeks civil penalties of \$250 for the initial violation and \$1,000 for each subsequent violation.

FIFTH CAUSE OF ACTION
PAGA PENALTIES FOR FAILURE TO PROVIDE TIMELY WAGES
(AGAINST ALL DEFENDANTS)

45. Plaintiff incorporates the preceding paragraphs of this Complaint.

46. Labor Code section 204(a) requires employers to pay wages earned by employees within strict time requirements. Defendants had a policy, practice, and procedure of willfully failing to pay the earned wages of Defendants' employees twice during each calendar month, on days designated in advance by the employer as the regular paydays. For example, commissions are described as "monthly" with no indication in which pay period they are earned, so it cannot be determined if they are paid in the correct pay periods or within the correct amount of time.

47. Defendants failed to pay Plaintiff and other aggrieved employees all wages, including commission wages, during their employment, as required by Labor Code section 204.

48. Labor Code sections 2698, *et seq.* impose upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation of Labor Code sections 204 and 1198.

49. Labor Code section 2699(f)(2) provides for civil penalties for violations of the Labor Code for which there is no corresponding civil penalty, including Labor Code section 203. The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each underpaid employee. Labor Code § 2699(f)(2).

SIXTH CAUSE OF ACTION
PAGA PENALTIES FOR FAILURE TO PROVIDE FINAL WAGES
(AGAINST ALL DEFENDANTS)

50. Plaintiff incorporates the preceding paragraphs of this Complaint.

51. Labor Code sections 201-202 require employers to pay wages earned by employees within certain times. Defendants had a consistent and uniform policy, practice, and

1 procedure of willfully failing to pay the earned wages of Defendants' former employees. An
2 employer that willfully fails to timely pay all final wages must, as a statutory penalty, pay an
3 employee's wages for 30 days, or until back wages are paid in full. Labor Code § 203.

4 52. Defendants failed to pay Plaintiff and other aggrieved employees all final wages,
5 including minimum, regular, and overtime wages, and meal and rest period premium wages, as
6 required by Labor Code sections 201-202.

7 53. Defendants failed to pay Plaintiff and other aggrieved employees penalties for
8 the failure to pay all final wages. Plaintiff will seek civil penalties of \$100 for the initial pay
9 period an employee was not paid all final wages, and \$200 for each subsequent violation.

10 **SEVENTH CAUSE OF ACTION**
11 **PAGA PENALTIES FOR FAILURE TO MAINTAIN ACCURATE RECORDS**
12 **(AGAINST ALL DEFENDANTS)**

13 54. Plaintiff incorporates the preceding paragraphs of this Complaint.

14 55. "Every person employing labor in this state shall: Keep, at a central location in
15 the state or at the plants or establishments at which employees are employed, payroll records
16 showing the hours worked daily by and the wages paid to employees employed at the respective
17 plants or establishments...for not less than three years." Labor Code § 1174(d).

18 56. "Any person employing labor who willfully fails to maintain accurate and
19 complete records required by subdivision (d) of Section 1174, shall be subject to a civil penalty
20 of five hundred dollars." Labor Code § 1174.5.

21 57. Defendants failed to keep accurate records showing number of hours worked by
22 Plaintiff and aggrieved employees and Plaintiff will seek civil penalties of \$500 per employee.

23 **PRAYER FOR RELIEF**

24 Plaintiff MAGDALENA ORTIZ, on behalf of herself and all other aggrieved
25 employees, prays for judgment as follows:

26 A. This action be maintained as a PAGA Representative Action, and Plaintiff and
27 her counsel be provided with enforcement capability as if the action were brought by the
28 Department of Labor Standards Enforcement ("DLSE");

B. For civil penalties under Labor Code section 2699 for failure to pay minimum,

1 regular, and overtime wages pursuant to Sections 512 and 1194, according to proof;

2 C. For civil penalties under Labor Code sections 558 and 1197.1 for failing to pay
3 overtime wages for all hours worked, according to proof;

4 D. For civil penalties under Labor Code section 2699 for failure to provide meal
5 periods compliant with Labor Code sections 226.7 and 512, according to proof;

6 E. For civil penalties under Labor Code section 2699 for failure to pay all meal
7 period premiums due pursuant to Labor Code section 226.7, according to proof;

8 F. For civil penalties under Labor Code section 2699 for failure to authorize and
9 permit rest periods, pursuant to Labor Code section 226.7(a), according to proof;

10 G. For civil penalties under Labor Code section 2699 for failure to pay all rest
11 period premiums due pursuant to Labor Code section 226.7(b), according to proof;

12 H. For civil penalties under Labor Code section 2699 for failing to provide accurate
13 itemized wage statements pursuant to Labor Code sections 226 and 226.3, according to proof;

14 I. For civil penalties pursuant to Labor Code section 2699(f)(2) for failing to timely
15 pay all wage due pursuant to Labor Code section 204(a).

16 J. For civil penalties under Labor Code section 2699(f)(2) for failing to timely pay
17 all final wages at termination, and waiting time penalties, pursuant to Labor Code sections 201-
18 203;

19 K. For civil penalties under Labor Code section 2699(f)(2) for failing to pay
20 statutory waiting time penalties due pursuant to Labor Code section 203;

21 L. For all civil penalties to be distributed 75% to the LWDA and 25% to the
22 aggrieved employees, subject to approval by the Court, pursuant to Labor Code section 2699(i);

23 M. For reasonable attorneys' fees and costs pursuant to statute, including, Labor
24 Code sections 226, 1194, and 2698, *et seq.*, and Code of Civil Procedure section 1021.5;

25 N. For all interest accrued;

26 ///

27 ///

28 ///

O. For such other relief the Court deems just and proper.

COHELAN KHOURY & SINGER
LAW OFFICES OF SAHAG MAJARIAN II

Dated: May 1, 2020

By: _____


Jeff Ceraci, Esq.

Attorneys for Plaintiff MAGDALENA ORTIZ

EXHIBIT 1

COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

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J. JASON HILL†
MARTA MANUS
KRISTINA DE LA ROSA

(† Also admitted in Illinois)

February 24, 2020

Notice Via Online Submission

California Labor and Workforce Development Agency

Via Certified U.S. Mail with Return Receipt

Comcast Cable Communications Management, LLC
1701 John F. Kennedy Blvd.
Philadelphia, PA 19103

Comcast Cable Communications Management, LLC
c/o CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Re: Ms. Magdalena Ortiz, on behalf of herself and all similarly-situated Comcast Cable Communications Management, LLC employees, as an individual and proposed Representative of the State of California

Dear PAGA Administrator:

Ms. Magdalena Ortiz submits notice of Labor Code and Industrial Welfare Commission Wage Order violations by Comcast Cable Communications Management, LLC ("Comcast" or "Defendant"). Ms. Ortiz seeks to represent herself and other aggrieved employees in a Private Attorneys General Act ("PAGA") action against Comcast. Labor Code §§ 2698, *et seq.* For purposes of this notice, "aggrieved employees" includes all the Company's non-exempt California employees paid, at least in part, with commission, and subject to the same or similar policies described below.

Factual Statement

Ms. Ortiz was hired by Comcast as Retail Sales Consultant in April 2016, a position also referred to as Retail Sales Professional or Retail Sales Executive ("Sales Consultants"). She worked in the Sunnyvale, California store and her employment terminated in August 2019. The duties of the position including selling Comcast products to new customers and selling existing customers new or enhanced services. Ms. Ortiz and other aggrieved employees were scheduled for six-hour shifts, to include one meal break and one rest break. They were paid hourly wages along with commissions based on sales and non-discretionary bonuses.

Sales Consultants frequently performed work before being able to clock-in. At times this involved straightening up and organizing the store before starting of the day. It was also the result of delays logging into the computer system and loading the program needed for the work, as well as times when passwords needed to be updated, usually every six weeks or as prompted by the system.

Comcast failed to include all compensation when calculating the regular rate of pay. For example, in a March 15, 2019 wage statement, commissions are not correctly added to hourly wages to determine the hourly rate and pay overtime wages. The commission is described as “monthly” but there is no indication in which pay period it was earned, so it is impossible to determine if it is being paid in the correct pay period. The wage statement also includes hours paid as vacation in total hours, adding to the difficulty in determining how Comcast is calculating the regular rate. This policy resulted in Ms. Ortiz and other aggrieved employees not being paid all overtime wages and premium wages for missed rest or meal periods.

As a result of the policies described above, Comcast violates Industrial Welfare Commission Wage Orders, including 7-2001, and the Labor Code provisions described below.

Labor Code §§ 218.5, 510, and 1194 (Minimum, Regular, and Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay the wages agreed to and at least minimum wages for all time under its control. overtime wages for hours worked over eight per day or forty per week at the regular rate of pay.

Ms. Ortiz and the aggrieved employees were not paid for all hours worked for several reasons, including: Comcast required or suffered and permitted work off-the-clock, including straightening up and organizing the store, or logging into the computer system while not clocked in. Comcast failed to pay all overtime wages due Ms. Ortiz and other aggrieved employees by failing to include all compensation in the regular rate of pay to calculate overtime wages.

Labor Code §§ 512 and 226.7 (Rest Periods and Premium Wages)

Comcast must authorize and permit employees “10 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours,” and 30 minutes for shifts of 10 hours or more. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1029-30 (2012). If rest breaks are late, missed, or too short, the employer is liable for an hour of pay at the employee’s regular rate (“premium wages”). Labor Code § 226.7; Industrial Welfare Commission (“IWC”) Wage Order 7-2001

Comcast schedules Ms. Ortiz and other aggrieved employees for six hour shifts and allows for one meal period and one rest break. In each shift more than six hours is worked, a meal period is not authorized or taken.

Labor Code § 226 (Wage Statements)

California employers must provide itemized wage statements showing, among other things, “total hours worked by the employee,” “the inclusive dates of the period for which the employee is paid,” and “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.” Labor Code § 226(a)(2)(6)(9). Because, among other things, Comcast’s wage statements did not state the period for which commissions were being paid, it did not state the inclusive dates for which employees were paid, and did not accurately state hours worked, or applicable hourly rates for those hours. Because Comcast did not include all compensation when calculating the regular rate, it did not pay, and its wage statements do not show, accurate overtime earnings or overtime rates.

Labor Code §§ 204 (Timely Payment of Wages)

An employer must pay all wages when due. “Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Lab Code § 204. Comcast refers to “monthly” commissions, but does not state in what month those commission are earned and whether they are being paid in the correct pay period as required by section 204.

Labor Code §§ 201-203 (Timely Final Wages)

An employer must pay all wages involuntarily terminated employees at the time of termination, or within 72 hours to employees voluntarily terminating. Cal. Labor Code § 201, 204. If an employer willfully fails to timely pay all wages to separated employees, the wages continue at the same rate for up to 30 days, until paid. As a result of its failure to pay all wages earned during their employment, Comcast failed to pay all final wages due Ms. Ortiz and other aggrieved employees, and violated Sections 201-203.

Labor Code § 1174 (Payroll Records)

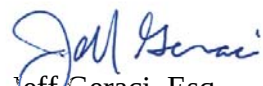
Labor Code section 1174 requires employers to keep “payroll records showing the hours worked daily by and the wages paid to the employee.” An employer may be liable under Section 1174 if it fails to record when employees report to work, the start and end time of their shifts, and the total hours worked or meal periods. See *Carrillo v. Schneider Logistics, Inc.*, 823 F. Supp.2d 1040, 1044 (2011). Because its policies forced Ms. Ortiz and other aggrieved employees to work off the clock, and because it did not accurately keep or report time worked, Comcast did not keep required records showing hours worked.

Conclusion

Defendant’s employment practices, as described in detail above, violate IWC Wage Orders 7-2001 and the California Labor Code, including sections 201-204, 218.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, and 2699.

Our client requests the Labor and Workforce Development Agency (“LWDA”) initiate enforcement for the violations described above. If the LWDA does not pursue enforcement, Ms. Ortiz will pursue claims for statutory penalties and seek all remedies available for violations of the Labor Code and Industrial Welfare Commission Wage Orders 7-2001, including all available penalties set forth in Labor Code section 2699(f).

Very truly yours,
COHELAN KHOURY & SINGER


Jeff Geraci, Esq.

cc: Via Email Only
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