

NO SUMMONS ISSUED

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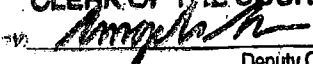
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and all other Aggrieved Employees*

FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

DEC 22 2020

CLERK OF THE COURT


ANGELICA SUNGA Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

XI CHEN, individually, and on behalf of
herself and all other aggrieved employees,

Plaintiff,

vs.

CITY NATIONAL BANK, a national bank,
and DOES 1 through 100, inclusive,

Defendants.

Case No. **CGC-20-588614**

REPRESENTATIVE COMPLAINT FOR:

1. Civil Penalties Pursuant to the Private Attorneys General Act of 2004 (California Labor Code § 2698, et seq.)

BY FAX

1. Plaintiff XI CHEN (“Plaintiff”), on behalf of herself and all other “Aggrieved Employees” defined herein, acting as a private attorney general under the California Labor Code Private Attorneys General Act of 2004, § 2698, et seq. (“PAGA”), files this Complaint against Defendant CITY NATIONAL BANK, a national bank (“CNB”), and DOES 1 through 100, inclusive (collectively, “Defendants”). Plaintiff alleges and avers as follows:

JURISDICTION AND VENUE

2. The civil penalties sought by Plaintiff pursuant to PAGA exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

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

4. This Court has jurisdiction over all Defendants because each Defendant is either a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

5. Venue is proper in this Court because, upon information and belief, the named Defendants reside, transact business, or have offices in this county and the acts and omissions alleged herein took place in this county, and some of the “Aggrieved Employees” (as defined herein) worked and/or resided in the County of San Francisco.

PARTIES

6. At all times herein relevant, Plaintiff was a resident of the State of California.

7. Defendant CNB is a national bank organized and existing under the laws of the State of California, and transacts business throughout the State of California, including the County of San Francisco. At all relevant times, Defendant CNB was the “employer” of Plaintiff and all other “Aggrieved Employees,” within the meaning of all applicable state laws and statutes.

8. At all times herein relevant, Defendant CNB and DOES 1 through 100, and each

1 of them, were the agents, partners, joint venturers, representatives, servants, employees,
2 successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant
3 hereto were acting within the course and scope of their authority as such agents, partners, joint
4 venturers, representatives, servants, employees, successors, co-conspirators and assigns, and that
5 all acts or omissions alleged herein were duly committed with the ratification, knowledge,
6 permission, encouragement, authorization and consent of each Defendant designated herein.

7 9. The true names and capacities, whether corporate, associate, individual or
8 otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues said
9 Defendants by such fictitious names. Plaintiff is informed and believes, and based on that
10 information and belief alleges, that each of the Defendants designated as a Doe is legally
11 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
12 the injuries and damages to Plaintiff and the other Aggrieved Employees, as alleged this
13 Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and
14 capacities when the same have been ascertained.

15 10. Defendant CNB and DOES 1 through 100 are collectively referred to herein as
16 "Defendants."

17 11. The "Aggrieved Employees" for purposes of this Complaint are all individuals
18 who worked for CNB in the State of California at any point from February 5, 2019 through the
19 date of judgment on this matter, and worked in a position classified by CNB as exempt from
20 overtime, and worked as an underwriter for CNB's commercial clients/customers. Plaintiff is
21 informed and believes that these Aggrieved Employees worked for CNB in Credit Officer and/or
22 Credit Analyst positions (and substantially similar positions).

23 FACTUAL ALLEGATIONS

24 12. Plaintiff began to work for CNB on or about May 29, 2012. Plaintiff separated
25 from CNB on or about July 28, 2020. Throughout her employment with CNB, Plaintiff worked
26 in the Los Angeles area.

27 13. From approximately September 2016 through her separation, Plaintiff was
28 employed by CNB with the job title of Commercial Credit Officer I. Plaintiff also worked for

1 CNB in the position of Commercial Credit Officer II.

2 14. Defendants' commercial underwriters, including the Aggrieved Employees
3 defined herein, underwrite loans, lines of credit, and other financial products and services for
4 Defendants' business clients/customers.

5 15. Throughout her employment as a Commercial Credit Officer I and II, Defendants
6 misclassified and paid Plaintiff as an exempt employee, denying her straight and overtime pay
7 for all hours worked, and otherwise denying her the benefits to which non-exempt employees are
8 entitled under the California Labor Code.

9 16. The Aggrieved Employees described herein also were misclassified and paid as
10 exempt employees, thereby denied straight and overtime pay for all hours worked, and otherwise
11 denied the benefits to which non-exempt employees are entitled under the California Labor Code.

12 17. Despite Defendants' classification of Plaintiff and the Aggrieved Employees, as
13 exempt, they did not satisfy any overtime exemption. Plaintiff and the other Aggrieved
14 Employees did not supervise or manage other employees, and otherwise failed to meet the
15 requirements of the executive exemption. They also were not outside salespersons, and they did
16 not satisfy the requirements for any of the professional exemptions.

17 18. Upon information and belief, Plaintiff and the other Aggrieved Employees were
18 also not covered by the administrative exemption because their duties do not relate to the internal
19 administration of Defendants' business or the business of Defendants' clients/customers. Rather
20 than advising on general corporate administration or strategy, the duties of Plaintiff and the other
21 Aggrieved Employees involved only discrete transactions. Moreover, as Plaintiff and the other
22 Aggrieved Employees performed work that was part of CNB's core product – providing
23 financial products and services to its clients/customers, they were "production" rather than
24 administrative workers.

25 19. Defendants had the authority to hire and terminate Plaintiff and the other
26 Aggrieved Employees, to set their work rules and terms and conditions of employment, and to
27 supervise their daily employment activities.

28 20. Defendants directly hired and paid wages and benefits to Plaintiff and the other

1 Aggrieved Employees.

2 21. Plaintiff is informed and believes, and based thereon alleges that, at all material
3 times set forth herein, Defendants engaged in a uniform policy and systematic scheme of wage
4 abuse against Plaintiff and the other Aggrieved Employees.

5 22. Plaintiff is informed and believes, and based thereon alleges, that at all material
6 times set forth herein, Defendants knew or should have known that they had a duty to classify
7 Plaintiff and the other Aggrieved Employees as non-exempt employees and compensate them
8 pursuant to California law.

9 23. Plaintiff is informed and believes, and based thereon alleges, that at all material
10 times set forth herein, Defendants knew or should have known that Plaintiff and the other
11 Aggrieved Employees were entitled to receive at least minimum wage for all hours worked and
12 Defendants failed to comply with the applicable provisions of the Labor Code and IWC Wage
13 Order 4 requiring Defendants to compensate Plaintiff and the other Aggrieved Employees at
14 least the applicable minimum wage for all hours worked. Among other things, Defendants'
15 misclassification of Plaintiff and the other Aggrieved Employees as exempt resulted in them
16 being compensated a salary that represented payment for only their regular work hours. As such,
17 Plaintiff and the other Aggrieved Employees received no compensation for any hours worked in
18 excess of eight (8) hours in a workday or forty (40) hours in a work week.

19 24. Plaintiff is informed and believes, and based thereon alleges, that at all material
20 times set forth herein, Defendants knew or should have known that Plaintiff and the other
21 Aggrieved Employees were working overtime hours that Defendants failed to compensate as
22 required by the applicable provisions of the Labor Code and IWC Wage Order 4. Among other
23 things, Plaintiff and the other Aggrieved Employees were unlawfully denied straight time and
24 overtime premium pay for their overtime hours, even though they regularly worked more than
25 eight (8) hours in a workday and more than forty (40) hours in a workweek.

26 25. Plaintiff is informed and believes, and based thereon alleges, that due to
27 Defendants' misclassification of them as exempt, Plaintiff and the other Aggrieved Employees
28 were not permitted to record their work hours, or the beginning and end of meal periods.

1 26. Plaintiff is informed and believes, and based thereon alleges, that at all material
2 times set forth herein, Defendants failed to comply with the applicable provisions of the Labor
3 Code and IWC Wage Order 4 requiring Defendants to provide Plaintiff and the other Aggrieved
4 Employees with legally compliant meal periods. Among other things, Defendants failed to
5 provide Plaintiff and the other Aggrieved Employees with a 30-minute duty-free meal period
6 when working more than five (5) hours; a 30-minute duty-free meal period before the end of
7 their fifth (5th) hour of work; or a second 30-minute duty-free meal period when working more
8 than ten (10) hours.

9 27. Plaintiff is informed and believes, and based thereon alleges, that at all material
10 times set forth herein, Defendants failed to comply with the applicable provisions of the Labor
11 Code and IWC Wage Order 4 requiring Defendants to authorize and permit Plaintiff and the
12 other Aggrieved Employees to take legally compliant rest periods. Among other things,
13 Defendants failed to provide Plaintiff and the other Aggrieved Employees with one duty-free rest
14 period for every four (4) hours worked, or major fraction thereof.

15 28. Plaintiff is informed and believes, and based thereon alleges, that at all material
16 times set forth herein, Defendants knew or should have known that Plaintiff and the other
17 Aggrieved Employees were entitled to receive all wages due to them, within the applicable pay
18 periods and that Defendants regularly and consistently failed to pay Plaintiff and the other
19 Aggrieved Employees all wages due to them within the applicable pay periods.

20 29. Plaintiff is informed and believes, and based thereon alleges, that at all material
21 times set forth herein, Defendants knew or should have known that Plaintiff and the other
22 Aggrieved Employees who separated from their employment, were entitled to receive all wages
23 owed to them upon discharge or resignation and that Defendants regularly, consistently, and
24 willfully failed to pay Plaintiff and the other Aggrieved Employees all wages owed to them upon
25 discharge or resignation.

26 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knew or should have known that Plaintiff and the other Aggrieved Employees were entitled to
28 receive complete and accurate wage statements in accordance with California law.

31. Defendants have common policies and practices that apply to Plaintiff and the other Aggrieved Employees working in the State of California. These common policies and practices result in the legal violations described herein, making such claims susceptible to common proof and adjudication.

32. For example, Defendants have utilized the following policies and practices for their employees throughout the State of California during the relevant time period:

- a. Preventing Plaintiff and the other Aggrieved Employees from reporting hours worked;
- b. Failing to pay Plaintiff and the other Aggrieved Employees at least minimum wage for all hours worked;
- c. Failing to pay Plaintiff and the other Aggrieved Employees for overtime hours during the time period required for the payment of overtime;
- d. Failing to record the times in which Plaintiff and the other Aggrieved Employees began and ended periods of work, including meal periods (or whether they were taken at all); and
- e. Failing to provide Plaintiff and the other Aggrieved Employees with legally complaint meal and rest periods.
- f. Failing to pay Plaintiff and the other Aggrieved Employees all wages due upon their separation of Defendants' employment, and failing to pay required "waiting time" penalties that were due as a result.
- g. Failing to provide accurate itemized wage statements to Plaintiff and the other Aggrieved Employees.
- h. Failing to pay Plaintiff and the other Aggrieved Employees all wages due to them within the required pay periods.
- i. Failing to keep complete and accurate records of Plaintiff and the other Aggrieved Employees.

FIRST CAUSE OF ACTION

CIVIL PENALTIES PURSUANT TO THE

1 **PRIVATE ATTORNEYS GENERAL ACT OF 2004**

2 **(California Labor Code § 2698, et seq.)**

3 **(Against All Defendants and DOES 1 through 100)**

4 33. Plaintiff, on behalf of herself and the other Aggrieved Employees, re-alleges and
5 incorporates into this cause of action each of the preceding paragraphs.

6 34. At all times relevant to this action, Defendants devised, formulated, implemented,
7 and enforced, the following policies and procedures in violation of California Law, including but
8 not limited to the provisions of the California Labor Code and Industrial Welfare Commission
9 Wage Order 4, which give rise to PAGA civil penalties under California Labor Code section
10 2698, et seq.:

11 a) Civil Penalties for Failure to Pay Minimum Wages

12 35. At all relevant times, Plaintiff and the other Aggrieved Employees did not meet
13 the requirements for any exemption for minimum wage requirements under California law.

14 36. At all relevant times, Plaintiff and the other Aggrieved Employees are entitled to
15 the protections of California Labor Code sections 1194, 1197, and 1197.1.

16 37. At all relevant times, California Labor Code section 1197 provide that minimum
17 wages must be paid to employees, and the payment of a lesser wage than the minimum so fixed
18 is unlawful.

19 38. During the relevant time period, Defendants intentionally and willfully failed to
20 pay minimum wage to Plaintiff and the other Aggrieved Employees as required, pursuant to
21 California Labor Code section 1197.

22 39. Defendants' failure to pay Plaintiff and the other Aggrieved Employees the
23 minimum wage as required violates California Labor Code sections 210 and 1197.

24 40. Through their policies and practices, Defendants' conduct violates IWC Wage
25 Order 4 and California Labor Code sections 210, 558 and 1197.

26 b) Civil Penalties for Failure to Pay Overtime Wages

27 41. At all relevant times, Plaintiff and the other Aggrieved Employees did not meet
28 the requirements for any exemption for overtime requirements under California law.

1 42. Plaintiff and the other Aggrieved Employees entitled to the protections of
2 California Labor Code sections 510, 1194, and 1198.

3 43. Pursuant to California Labor Code section 510, during the relevant time period,
4 Defendants were required to compensate Plaintiff and the other Aggrieved Employees for all
5 overtime hours worked, calculated at one and one-half (1 1/2) times the regular rate of pay for
6 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the
7 first eight (8) hours of the seventh consecutive work day, and double time after eight (8) hours on
8 the seventh day of any work week, or after twelve (12) hours in any work day.

9 44. Pursuant to California Labor Code section 1198 and IWC Wage Order 4, it is
10 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half
11 or two-times that person's regular rate of pay, depending on the number of hours worked by the
12 person on a daily or weekly basis.

13 45. Pursuant to California Labor Code section 1198, the maximum hours of work and
14 the standard conditions of labor fixed by the commission shall be the maximum hours of work
15 and the standard conditions of labor for employees. The employment of any employee for longer
16 hours than those fixed by the Wage Order or under conditions of labor prohibited by the Wage
17 Order is unlawful.

18 46. Pursuant to the IWC Wage Order 4, Plaintiff and the other Aggrieved Employees
19 are not to be employed more than eight (8) hours in any one workday or more than six (6) days
20 in any workweek unless they receives one and one-half (1 1/2) times such employee's regular
21 rate of pay for all hours worked over eight (8) hours in any workday and for the first eight (8)
22 hours on the seventh (7th) day of work and double the employee's regular rate of pay for all
23 hours worked over eight (8) on the seventh (7th) day of work in the workweek.

24 47. During the relevant time period, Plaintiff and the other Aggrieved Employees
25 worked in excess of eight (8) hours in a day and/or forty (40) hours in a work week. However,
26 Plaintiff and the other Aggrieved Employees did not receive payment for overtime hours worked.

27 48. During the relevant time period, Defendants intentionally and willfully failed to
28 pay overtime wages owed to Plaintiff and the other Aggrieved Employees.

1 49. Defendants' failure to pay Plaintiff and the other Aggrieved Employees overtime
2 compensation, as required by California laws, violates the provisions of California Labor Code
3 sections 210, 510, 1198, and is therefore unlawful.

4 50. Through their policies and practices, Defendants' conduct violates IWC Wage
5 Order 4 and California Labor Code sections 210, 510, 558 and 1198.

6 c) Civil Penalties for Failure to Provide Meal Periods

7 51. At all relevant times, the IWC Wage Order 4 and California Labor Code sections
8 226.7 and 512 was applicable to Plaintiff's and all other Aggrieved Employees' employment by
9 Defendants.

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

13 53. At all relevant times, the applicable IWC Wage Order 4 and Labor Code section
14 512 provide that an employer may not require, cause or permit an employee to work for a work
15 period of more than five (5) hours per day without providing the employee with a meal period of
16 not less than thirty (30) minutes, except that if the total work period per day of the employee is
17 no more than six (6) hours, the meal period may be waived by mutual consent of both the
18 employer and employee.

19 54. At all relevant times, the IWC Wage Order 4 required employers to record the
20 starting and ending times of each work period, including meal periods. IWC Wage Order 4-2001,
21 § 7(A)(3). Defendants intentionally and willfully violated this requirement by failing to record
22 the times of meal periods, including when meal periods began, when they ended, their duration,
23 or even whether they occurred at all.

24 55. During the relevant time period, Plaintiff and the other Aggrieved Employees
25 were required to work for periods longer than five (5) hours without a legally compliant meal
26 period of not less than thirty (30) minutes.

27 56. During the relevant time period, Defendants intentionally and willfully failed to
28 provide Plaintiff and the other Aggrieved Employees with meal periods within the legally

1 required timeframes and failed to compensate Plaintiff and the other Aggrieved Employees with
2 meal period premiums for missed or untimely meal periods.

3 57. Due to workloads imposed by the Defendants, Plaintiff and the other Aggrieved
4 Employees were denied duty-free meal periods as required by Labor Code sections 226.7 and
5 512.

6 58. During the relevant time period, Defendants failed to pay Plaintiff and the other
7 Aggrieved Employees meal period premiums due pursuant to California Labor Code section
8 226.7.

9 59. Through their policies and practices, Defendants' conduct violates IWC Wage
10 Order 4 and California Labor Code sections 226.7, 512, and 558.

11 d) Civil Penalties for Failure to Authorize and Permit Rest Periods

12 60. At all relevant times, the IWC Wage Order 4 and California Labor Code section
13 226.7 was applicable to Plaintiff's and all other Aggrieved Employees' employment by
14 Defendants.

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

18 62. At all relevant times, the applicable IWC Wage Order 4 provides that "every
19 employer shall authorize and permit all employees to take rest periods, which insofar as
20 practicable shall be in the middle of each work period" and that the authorized rest period time
21 shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per
22 four (4) hours or major fraction thereof unless the total daily work time is less than three and
23 one-half (3 1/2) hours.

24 63. Plaintiff and the other Aggrieved Employees were denied duty-free rest periods as
25 required by subdivision (b) of the California Labor Code section 226.7.

26 64. During the relevant time period, Defendants required Plaintiff and the other
27 Aggrieved Employees to work four (4) or more hours without authorizing or permitting a ten
28 (10) minute rest period.

1 65. Defendants' conduct violates IWC Wage Order 4 and California Labor Code
2 section 226.7.

3 66. Pursuant to IWC Wage Order 4 and subdivision (c) of the California Labor Code
4 section 226.7, Plaintiff and the other Aggrieved Employees are entitled to recover from
5 Defendants one additional hour of pay at the employee's regular rate of compensation for each
6 workday that the rest period was not provided.

7 67. During the relevant time period, Defendants failed to pay Plaintiff and the other
8 Aggrieved Employees rest period premiums due pursuant to IWC Wage Order 4 and subdivision
9 (c) of the California Labor Code section 226.7.

10 68. Through their policies and practices, Defendants' conduct violates IWC Wage
11 Order 4 and California Labor Code sections 226.7 and 558.

12 e) Civil Penalties for Failure to Timely Pay Wages at Termination and Failure to Pay
13 Continuing Wages Penalty

14 69. Plaintiff and all other Aggrieved Employees are entitled to the protections of
15 California Labor Code sections 201, 202, and 203.

16 70. Pursuant to California Labor Code sections 201 and 202, if an employer
17 discharges an employee, the wages earned and unpaid at the time of discharge are due and
18 payable immediately, and if an employee quits his or her employment, his or her wages shall
19 become due and payable not later than seventy-two (72) hours thereafter, unless the employee
20 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the
21 employee is entitled to his or her wages at the time of quitting.

22 71. Pursuant to subdivision (a) of the California Labor Code section 203, if an
23 employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201
24 and 202, any wages of an employee who is discharged or who quits, the wages of the employee
25 shall continue as a penalty from the due date thereof at the same rate until paid or until an action
26 therefor is commenced; but the wages shall not continue for more than 30 days.

27 72. During the relevant time period, Defendants intentionally and willfully failed to
28 pay to Plaintiff and the other Aggrieved Employees their wages, earned and unpaid, within

1 seventy-two (72) hours of them leaving Defendants' employ.

2 73. These earned and unpaid wages to Plaintiff and the other Aggrieved Employees
3 included, without limitation, unpaid minimum wages and overtime pay.

4 74. Defendants' failure to pay Plaintiff all other Aggrieved Employees their wages,
5 earned and unpaid, within seventy-two (72) hours of them leaving Defendants' employ, is in
6 violation of California Labor Code sections 201 and 202.

7 75. Defendants' failure to pay continuing wages penalty, is in violation of California
8 Labor Code section 203.

9 76. Through their policies and practices, Defendants' conduct violates California
10 Labor Code sections 201, 202, and 203.

11 f) Civil Penalties for Failure to Provide Accurate Itemized Wage Statements

12 77. At all relevant times, the IWC Wage Order 4 and California Labor Code section
13 226 was applicable to Plaintiff's and all other Aggrieved Employees' employment by
14 Defendants.

15 78. Pursuant to subdivision (a) of the California Labor Code section 226, every
16 employer shall furnish each of his or her employees an accurate itemized statement in writing
17 showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of
18 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
19 (4) all deductions, provided that all deductions made on written orders of the employee may be
20 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
21 which the employee is paid, (7) the name of the employee and his or her social security number,
22 (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
23 rates in effect during the pay period and the corresponding number of hours worked at each
24 hourly rate by the employee. The deductions made from payments of wages shall be recorded in
25 ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the
26 statement or a record of the deductions shall be kept on file by the employer for at least three
27 years at the place of employment or at a central location within the State of California.

28 79. During the relevant time period, Defendants intentionally and willfully failed to

1 provide Plaintiff and the other Aggrieved Employees with complete and accurate wage
2 statements. The deficiencies included one or more of the following: the failure to include the
3 correct total number of hours worked and the failure to include the correct hourly rate by
4 misclassifying by Plaintiff and the other Aggrieved Employees as exempt.

5 80. Through their policies and practices, Defendants' conduct violates IWC Wage
6 Order 4 and subdivision (a) of the California Labor Code section 226.

7 g) Civil Penalties for Failure to Pay Wages Timely During Employment

8 81. At all relevant times, California Labor Code section 204 was applicable to
9 Plaintiff's and all other Aggrieved Employees' employment by Defendants.

10 82. At all relevant times, subdivision (a) of the California Labor Code section 204
11 states that all wages, other than those mentioned in Sections 201 and 202, earned by any person
12 in any employment are due and payable twice during each calendar month, on days designated in
13 advance by the employer as the regular paydays.

14 83. At all relevant times, subdivision (b) of the California Labor Code section 204
15 states that all wages earned for labor in excess of the normal work period shall be paid no later
16 than the payday for the next regular payroll period.

17 84. During the relevant time period, Defendants intentionally and willfully failed to
18 pay Plaintiff and the other Aggrieved Employees all wages due to them within the specific pay
19 periods.

20 85. Through their policies and practices, Defendants' conduct violates California
21 Labor Code section 204.

22 h) Civil Penalties for Failure to Keep Complete and Accurate Records

23 86. At all relevant times, subdivision (d) of the California Labor Code section 1174
24 was applicable to Plaintiff's and all other Aggrieved Employees' employment by Defendants.

25 87. At all relevant times, subdivision (d) of the California Labor Code section 1174
26 requires every person employing labor in California shall keep, at a central location in the state
27 or at the plants or establishments at which employees are employed, payroll records showing the
28 hours worked daily by and the wages paid to and these records shall be kept in accordance with

1 rules established for this purpose by the commission, but in any case shall be kept on file for not
2 less than three years.

3 88. During the relevant time period, Defendants failed to keep complete and accurate
4 payroll records. Among other things, Defendants failed to record all time worked by Plaintiff and
5 the other Aggrieved Employees.

6 89. Through their policies and practices, Defendants' conduct violates subdivision (d)
7 of the California Labor Code section 1174.

8 i) Civil Penalties for Violations for Failure to Reimburse Business Expenses

9 90. Pursuant to Labor Code section 2802, Defendants were required to indemnify or
10 reimburse Plaintiff and the other Aggrieved Employees for all losses and expenses incurred in
11 the performance of their job duties.

12 91. Through their policies and practices, in failing to reimburse for all reasonable and
13 necessary expenses, Defendants' conduct violates Labor Code section 2802.

14 j) Civil Penalties for Violations of IWC Wage Order 4

15 92. Subdivision (c) of the California Labor Code section 1199 makes it a
16 misdemeanor, punishable by monetary fine, for employers that, among other things, violate the
17 provisions of the IWC Wage Orders. As described herein, Defendants violated the Wage Order 4
18 in many respects, including without limitation, failure to pay minimum wages, failure to pay all
19 required daily and weekly overtime hours, failure to accurately record all work periods,
20 including the beginning and ending of meal periods, and failure to provide duty-free meal and
21 rest periods. See IWC Wage Order 4-2001, §§ 3(A), 4, 7, 11, 12.

22 k) Exhaustion of Administrative Remedies

23 93. On or about February 5, 2020, pursuant to California Labor Code section 2699.3,
24 Plaintiff, through her counsel, on behalf of herself and all other Aggrieved Employees, provided
25 the California Labor and Workforce Development Agency, with written notice of the specific
26 provisions of the California Labor Code that are alleged to have been violated, including the
27 facts and theories to support such violations.

28 94. A copy of said notice was also posted to Defendants by certified mail pursuant to

1 the requirements of California Labor Code section 2699.3.

2 95. On or about March 5, 2020, Plaintiff, through her counsel, on behalf of herself
3 and all other Aggrieved Employees, provided the California Labor and Workforce Development
4 Agency, with an amended notice clarifying and expanding the definition of "Aggrieved
5 Employees."

6 96. A copy of said notice was also posted to Defendants pursuant to the requirements
7 of California Labor Code section 2699.3.

8 97. The LWDA has failed to notify Plaintiff of its intent to investigate these penalty
9 claims within sixty-five (65) days.

10 98. Thus, Plaintiff has exhausted her administrative remedies under PAGA's
11 California Labor Code section 2699.3(a)(2)(A).

12 99. On or about April 7, 2020, Plaintiff and CNB entered into a tolling agreement to
13 toll the limitations period on Plaintiff's employment-related claims, including her representative
14 PAGA claims. This tolling agreement remains in effect.

15 100. Pursuant to PAGA, Plaintiff, in a representative capacity, is entitled to recover
16 civil penalties in connection with herself, and in connection with each and every allegedly
17 Aggrieved Employee of Defendants, for each and every pay period in which a California Labor
18 Code violation or IWC Wage Order violation occurred, in an amount according to proof at trial.

19 101. Plaintiff and the other Aggrieved Employees are also entitled to reasonable
20 attorney's fees and costs pursuant to Labor Code § 2699(g), which are respectfully requested, in
21 an amount to be proved according to law.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff, individually and on behalf of all other Aggrieved Employees,
24 prays that judgment be entered against Defendants as follows:

25 **On the First Cause of Action**

- 26 1. For civil penalties owing Plaintiff and the other Aggrieved Employees, pursuant
27 to California Labor Code section 2698 *et seq.*;
28 2. For attorneys' fees, as allowable by statute;

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VAN HOOK LAW FIRM
THE BYRNE LAW GROUP

- 17 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street address, number, and address): John A. Van Hook (SBN 205067), Van Hook Law Firm 14156 Magnolia Blvd, Suite 200, Sherman Oaks, CA 91423		FOR COURT USE ONLY FILED SUPERIOR COURT COUNTY OF SAN FRANCISCO DEC 22 2020 CLERK OF THE COURT  ANGELICA SUNGA Deputy Clerk	
TELEPHONE NO.: (310) 405-2426 ATTORNEY FOR (Name): Xi Chen		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: 400 McAllister Street CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse			
CASE NAME: Chen v. City National Bank			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: CGC-20-588614 JUDGE: DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 1
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 21, 2020

John A. Van Hook

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition