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7 Attorneys for Plaintiff MONIQUE COMPTON

FILED/ENDORSED

JUN - 2 2020

By: H. PEMELTON
Deputy Clerk

10 **SUPERIOR COURT OF CALIFORNIA**
11 **FOR THE COUNTY OF SACRAMENTO**

12 MONIQUE COMPTON, as an aggrieved)
13 employee pursuant to the Private)
14 Attorneys General Act (PAGA),)

15 Plaintiff,)
16)
17)

18 vs.)
19)
20)

21 BANK OF AMERICA, NATIONAL)
22 ASSOCIATION; and DOES 1 to 20,)
23 inclusive,)

24 Defendants)
25)
26)
27)
28)

Case No. *34-2020-00279864*

COMPLAINT FOR DAMAGES:

1. **Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 et seq.**

1 Plaintiff MONIQUE COMPTON ("Plaintiff") hereby files this Complaint against
2 Defendants BANK OF AMERICA, NATIONAL ASSOCIATION; and DOES 1 to 20, inclusive,
3 (hereinafter collectively referred to as "Defendants"). Plaintiff alleges the following:

4 **PARTIES AND JURISDICTION**

5 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
6 2004 ("PAGA"), California Labor Code section 2698, *et seq.* to recover civil penalties and any other
7 available relief on behalf of Plaintiff, the State of California, and other current and former employees
8 who worked for Defendants in California and who suffered at least one violation of the Labor Code
9 as set forth in this complaint, at any time between March 23, 2019 and judgement.

10 2. Plaintiff MONIQUE COMPTON is an individual over the age of eighteen (18) and is
11 now and/or at all times mentioned in this Complaint was a resident of the State of California.

12 3. Plaintiff has been a non-exempt employee of Defendants from approximately April 2019
13 through the present.

14 4. Plaintiff is informed and believes, and thereon alleges, that Defendant BANK OF
15 AMERICA, NATIONAL ASSOCIATION is a United States Corporation doing business in
16 California.

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

1 6. The Sacramento County Superior Court has jurisdiction in this matter under the
2 California Constitution, Article VI, section 10. The statute under which this action is brought does
3 not specify any other basis for jurisdiction.

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

6 8. On March 17, 2020, Plaintiff filed her Labor Code § 2699.3 Private Attorney General Act
7 (“PAGA”) Notice with the California Labor & Workforce Development Agency (“LWDA”).
8 Plaintiff then filed an Amended PAGA Notice on April 29, 2020, clarifying the scope of the group
9 of employees represented by her PAGA Notice. The LWDA did not respond to Plaintiff’s PAGA
10 Notice within 65 days, thus deputizing Plaintiff to represent herself, other aggrieved employees, and
11 the California Labor Commissioner for the purpose of collecting civil penalties for violations of the
12 California Labor Code committed by Defendants.

13
14 **FACTS COMMON TO ALL CAUSES OF ACTION**

15 9. Plaintiff worked for Defendants as a non-exempt Relationship Manager from
16 approximately April 2019 through the present.

17 10. During her employment, Plaintiff, and other aggrieved employees, were made to suffer
18 numerous violations of the California Labor Code.

19 11. Defendants did not allow Plaintiff and similarly situated employees to take their
20 statutorily required meal and rest periods. Plaintiff and similarly situated employees were required
21 to continue working through meal and rest periods in order to ensure the individual branch receives
22 positive scores on Defendants’ customer service surveys. As a result, Defendants failed to provide
23 paid rest periods to Plaintiff and similarly situated employees for every 4 hours worked or major
24 fraction thereof, and Plaintiff and similarly situated employees were not paid for all hours worked.

25 12. Moreover, Defendants failed to provide Plaintiff and other similarly situated employees a
26 30-minute, duty-free meal period before the end of the fifth hour of work as required under the law.
27 Defendants’ management staff were aware of these policies and that meal and/ or rest periods were
28 not provided to Plaintiff and similarly situated employees in compliance with California law. In

1 addition, Defendants frequently failed to pay Plaintiff and similarly situated employees the missed
2 meal and/ or rest period premiums.

3 13. When Plaintiff reported her concerns in or about July 2019 about her inability to take
4 meal and rest periods as required under the law, Plaintiff was retaliated against by Defendants'
5 supervisors and managers. Following Plaintiff's complaint of this harassment, Plaintiff has been
6 subjected to increasing retaliation and further harassment up to the present time. This is in violation
7 of Labor Code section 1102.5.

8 14. Defendants also did not provide Plaintiff and similarly aggrieved employees all wages
9 owed upon their termination or within seventy-two (72) hours of their separation from employment,
10 including but not limited to, all unpaid meal and rest period penalties.

11 15. As a result, Defendants did not provide Plaintiff and similarly situated employees legally
12 compliant wage statements noting, among other things, total hours worked, gross wages earned, the
13 applicable hourly rates in effect during the pay period and the corresponding number of hours
14 worked at each hourly rate.

15 16. Plaintiff is informed and believes that Defendants committed numerous other violations
16 of the California Labor Code, including but not limited to those identified in this letter. Pursuant to
17 *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513
18 (2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code,
19 whether he experienced them personally or not.

20 17. Upon information and belief, all transactions regarding hiring, terminations, promotions,
21 pay, etc. relating to Defendants' California employees were submitted to and processed by
22 Defendants' HR department in its corporate headquarters. Additionally, on information and belief,
23 Defendants' corporate records, in particular HR and pay records pertaining to Defendants' California
24 employees, are also maintained at Defendants' corporate headquarters.

25 18. Upon information and belief, Defendants maintain a central Payroll department at its
26 corporate headquarters which processes payroll for all Defendants' employees, including Plaintiff
27 and similarly situated, aggrieved employees.
28

1 19. At all times herein set forth, PAGA provides that any provision of law under the Labor
2 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected
3 by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as
4 an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
5 themselves and other current or former employees pursuant to procedures outlined in California
6 Labor Code section 2699.3.

7 20. PAGA defines an aggrieved employee in labor Code section 2699(c) as “any person who
8 was employed by the alleged violator and against whom one or more of the alleged violations was
9 committed.”

10 21. Plaintiff and other current and former employees of Defendants are aggrieved employees
11 as defined by the Labor Code in that they are all Defendants’ current or former employees and one
12 or more of the alleged violations was committed against them.

13
14 **FIRST CAUSE OF ACTION**
15 **CIVIL PENALTIES PURSUANT TO PAGA § 2698 ET SEQ.**
16 **(As to All Defendants)**

17 22. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 21 as though fully
18 set forth herein.

19 23. Plaintiff brings this cause of action as a proxy for the State of California and in this
20 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants’ violations of the
21 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
22 violations identified above.

23 24. On or about March 17, 2020, Plaintiff, through counsel, sent written notice to the LWDA
24 regarding Defendant’s violations of the California Labor Code, pursuant to Labor Code section
25 2698, *et seq.*, PAGA. On or about April 29, 2020, Plaintiff submitted an amended PAGA Notice,
26 which is attached as Exhibit A and is incorporated herein.

27 25. In the Amended PAGA Notice, Plaintiff clarified that **“the group of all similarly**
28 **situated current and former aggrieved employees Claimant seeks to represent—and seek civil**
penalties on behalf of—includes all current and former non-exempt employees of Defendant,

1 *other than those who worked at any of Defendant's banks as a Teller."* See **Exhibit A, page 1.**

2 As of the date of the filing of this Complaint, the LWDA has not informed Plaintiff whether the
3 LWDA intends to investigate Plaintiff's PAGA claims. As such, Plaintiff has exhausted her
4 administrative remedies under PAGA and may proceed in this Court.

5 26. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California and
6 all aggrieved employees for all violations of the Labor Code from March 17, 2019, through trial on
7 this matter.

8 27. Defendants' conduct, as alleged herein, violated various sections of the California Labor
9 Code, including but not limited to, the following:

10 28. Labor Code section 1174(d) requires employers to keep "payroll records showing the
11 hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in
12 accordance with rules established for this purpose by the commission, but in any case shall be kept
13 on file for not less than three years." Defendants did not keep accurate information regarding all
14 hours worked by Plaintiff and similarly situated employees, largely by failing to accurately record all
15 time worked on their time records. This is in violation of the Labor Code.

16 29. Labor Code section 226 requires employers to furnish to employees with "an accurate
17 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
18 employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the
19 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
20 written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6)
21 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and
22 only the last four digits of his or her social security number or an employee identification number
23 other than a social security number, (8) the name and address of the legal entity that is the employer .
24 . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number
25 of hours worked at each hourly rate by the employee" For the reasons stated above, Defendants
26 failed to comply with these requirements with respect to Plaintiff and similarly situated employees in
27 violation of the Labor Code.
28

1 30. Labor Code sections 510 and 1194 require employers to pay employees overtime for any
2 work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any
3 one workweek. Employers must also pay overtime for the first eight (8) hours worked on the
4 seventh day of work in any one workweek. Finally, employers must pay double time for all hours
5 worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8)
6 hours on the seventh day of work in any one workweek. As stated above, Plaintiff and similarly
7 situated employees worked over eight (8) hours per day and forty (40) hours per week and were not
8 paid all overtime wages due. This is in violation of the Labor Code.

9 31. During the period Plaintiff and similarly situated employees were employed by
10 Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that
11 they worked. *See, e.g.*, IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001,
12 section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay
13 Plaintiff and similarly situated employees at least minimum wage for all hours worked. Thus,
14 Plaintiff and similarly situated employees were not paid at least the applicable state minimum wage
15 for all hours worked in violation of the Labor Code. This is in violation of the Labor Code.

16 32. Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require
17 employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For
18 the reasons stated above, Plaintiff and similarly situated employees were not authorized and
19 permitted to take legally compliant meal periods pursuant to California law. This is in violation of
20 the Labor Code.

21 33. Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require
22 employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or
23 major fraction thereof worked. For the reasons stated above, Plaintiff and similarly situated
24 employees were not authorized and permitted to take legally compliant rest periods pursuant to
25 California law in violation of the Labor Code. Defendants also failed to pay any rest period
26 premiums for their failure to provide rest periods. This is in violation of the Labor Code.
27
28

34. Labor Code section 1102.5 prohibits retaliation against an employee for disclosing information to a person with authority over the employee, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Labor Code § 1102.5 further prohibits retaliation against an employee for refusing to participate in an activity that would result in a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Claimant informed Defendants as to her complaints about wage and hour violations. Following Claimant's notification to Defendants and the LWDA of the above-referenced concerns, Claimant was retaliated against in the workplace by Defendants' supervisor and manager. This is in violation of the Labor Code.

35. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513 (2018), Plaintiff seeks civil penalties on behalf of the State of California and all aggrieved employees for all violations of the California Labor Code, whether she experienced them personally or not.

DAMAGES

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For civil penalties under the California Labor Code according to proof allowed by law;
2. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees;
3. For injunctive relief;
4. For an award of prejudgment and post-judgment interest; and
5. For an award to Plaintiff of such other and further relief as the Court deems just and proper.

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Dated: May 29, 2020

Castle Law: California Employment Counsel

By: 
Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiff CLINT DAVIDSON

EXHIBIT A



Kent L. Bradbury
kb@castleemploymentlaw.com
916-245-0122

3200 Douglas Blvd.
Suite 300
Roseville, CA 95661

April 29, 2020

For Online Filing:

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 91302

Re: *Monique Compton v. Bank of America, NA, LWDA Case No. LWDA-CM- 778878-20*
AMENDED PAGA NOTICE

Dear Labor Commissioner,

As counsel for, and on behalf of, Ms. Monique Compton (“Claimant”), I am writing to provide you and the following employer (“Defendant”) notice pursuant to California Labor Code section 2699.3:

Bank of America, National Association.
100 North Tryon Street, Suite 170
Charlotte, NC 28202

This letter amends the initial PAGA Notice dated March 17, 2020 *LWDA-CM- 778878-20*

I am setting forth the facts and theories to support each of the violations alleged in this letter. Please notify us of your intent to investigate any or all of the claims alleged herein against the above identified Defendants. Should you decide not to investigate, we request that you allow us to seek civil penalties on behalf of the Labor Commissioner, Claimant, and all similarly situated current and former aggrieved employees, pursuant to California Labor Code section 2699(a).

Claimant was a non-exempt Relationship Manager, and the group of all similarly situated current and former aggrieved employees Claimant seeks to represent—and seek civil penalties on behalf of—includes all current and former non-exempt employees of Defendant, *other than those who worked at any of Defendant’s banks as a Teller.*

A \$75.00 filing fee has been submitted to Department of Industrial Relations, Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102.

A. FACTS

Claimant has worked for Defendant as a Relationship Manager from approximately April 2019 to the present. Claimant is an hourly-paid, non-exempt employee. During her employment, Claimant, and other aggrieved employees, were made to suffer numerous violations of the California Labor Code.

Defendants did not allow Claimant and similarly situated employees to take their statutorily required meal and rest periods. Claimant and similarly situated employees were required to continue working through meal and rest periods in order to ensure the individual branch receives positive scores on Defendant's customer service surveys. As a result, Defendant failed to provide paid rest periods to Claimant and similarly situated employees for every 4 hours worked or major fraction thereof, and Claimant and similarly situated employees were not paid for all hours worked.

Moreover, Defendant failed to provide Claimant and other similarly situated employees a 30-minute, duty-free meal period before the end of the fifth hour of work as required under the law. Defendant's management staff were aware of these policies and that meal and/ or rest periods were not provided to Claimant and similarly situated employees in compliance with California law. In addition, Defendants frequently failed to pay Claimant and similarly situated employees the missed meal and/ or rest period premiums.

When Claimant reported her concerns in or about July 2019 about her inability to take meal and rest periods as required under the law, Claimant was retaliated against by Defendant's supervisors and managers. Following Claimant's complaint of this harassment, Claimant has been subjected to increasing retaliation and further harassment up to the present time. This is in violation of Labor Code section 1102.5.

Defendant also did not provide Claimant and similarly aggrieved employees all wages owed upon their termination or within seventy-two (72) hours of their separation from employment, including but not limited to, all unpaid meal and rest period penalties.

As a result, Defendant did not provide Claimant and similarly situated employees legally compliant wage statements noting, among other things, total hours worked, gross wages earned, the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Claimant is informed and believes that Defendant committed numerous other violations of the California Labor Code, including but not limited to those identified in this letter. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513 (2018), Claimant intends to seek civil penalties for all violations of the California Labor Code, whether she experienced them personally or not.

B. VIOLATIONS OF THE LABOR CODE EXPERIENCED BY CLAIMANT AND SIMILARLY SITUATED EMPLOYEES

1. Violation of Labor Code §§ 201–203 (Failure to Timely Pay Final Wages)

Labor Code sections 201–203 require that all wages, including overtime, minimum wages and meal and rest period premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Claimant and similarly situated employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201–203.

2. Violation of Labor Code § 1174 (Failure to Keep Accurate Time Records)

Labor Code section 1174(d) requires employers to keep “payroll records showing the hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years.” Defendant did not keep accurate information regarding all hours worked by Claimant and similarly situated employees, largely by failing to accurately record all time worked on their time records.

3. Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four 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 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee . . .” For the reasons stated above, Defendant failed to comply with these requirements with respect to Claimant and similarly situated employees in violation of the Labor Code.

4. Violation of Labor Code §§ 510, 1194; IWC Wage Order No. 4-2001, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees overtime for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay overtime for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh

day of work in any one workweek. As stated above, Claimant and similarly situated employees worked over eight (8) hours per day and forty (40) hours per week and were not paid overtime wages. Claimant and all similarly situated employees are entitled to recover all unpaid overtime wages.

5. Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order No. 5-2001, § 4 (Failure to Pay Minimum Wages)

During the period Claimant and similarly situated employees were employed by Defendant they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.,* IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001, section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendant did not pay Claimant and similarly situated employees at least minimum wage for all hours worked. Thus, Claimant and similarly situated employees were not paid at least the applicable state minimum wage for all hours worked in violation of the Labor Code.

6. Violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001, § 11(A) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For the reasons stated above, Claimant and similarly situated employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendant also failed to pay any meal period premiums for its failure to provide meal periods.

7. Violation of Labor Code § 226.7 and IWC Wage Order No. 5-2001, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Claimant and similarly situated employees were not authorized and permitted to take legally compliant rest periods pursuant to California law in violation of the Labor Code. Defendant also failed to pay any rest period premiums for their failure to provide rest periods.

8. Violation of Labor Code § 1102.5 (Retaliation)

Labor Code section 1102.5 prohibits retaliation against an employee for disclosing information to a person with authority over the employee, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation. California Labor Code § 1102.5 further prohibits retaliation against an employee for refusing to participate in an activity that would result in a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Claimant informed Defendants as to his complaints about harassment and discrimination in the workplace, as well as

complaints about wage and hour violations, and filed a PAGA Notice with the LWDA. Following Claimant's notification to Defendants and the LWDA of the above-referenced concerns, Claimant was retaliated against and wrongfully discharged.

9. Additional Violations of the Labor Code

Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513 (Ct. App. 2018), reh'g denied (June 13, 2018), review denied (Aug. 8, 2018), Claimant intends to seek civil penalties for all violations of the California Labor Code, whether she experienced them personally or not.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact my office.

Very truly yours,

Castle Law: California Employment Counsel

By: 
Kent L. Bradbury

cc:

Bank of America, National Association.
100 North Tryon Street, Suite 170
Charlotte, NC 28202
(via certified mail)