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16 *Collective and Aggrieved Employees*

17 **JAMS**

18 JESSICA CHIOU, SAM FALTER, and
19 VINCENT SALDIVAR, individually and on
20 behalf of all others similarly situated,

21 Claimants,

22 v.

23 SUMO LOGIC, INC.,

24 Respondent.

JAMS Ref No. 1220065681

**AMENDED CLASS AND COLLECTIVE
ACTION DEMAND FOR ARBITRATION**

**DEBORAH CRANDALL SAXE,
ARBITRATOR**

1 Claimants Jessica Chiou, Sam Falter, and Vincent Saldivar (“Claimants”), individually and on
2 behalf of all others similarly situated, by and through their attorneys, Outten & Golden LLP,
3 complaining of the conduct of Sumo Logic, Inc. (“Sumo Logic” or “Respondent”) upon personal
4 knowledge as to themselves and upon information and belief as to other matters, allege as follows:

5 **PRELIMINARY STATEMENT**

6 1. This action seeks to recover unpaid overtime compensation and other damages for
7 Claimants and similarly situated co-workers who have worked for Sumo Logic as Sales Development
8 Representatives (“SDRs”), or in Mid-Market Roles (including Commercial Account Executives,
9 Corporate Account Executives, Mid-Market Account Executives, or SMB Account Executives)
10 (collectively, “Mid-Markets”) (together with SDRs, “Sales Representatives”).

11 2. Sumo Logic is a software company with U.S. offices located in California, Colorado, and
12 New York.

13 3. Sumo Logic sells a data analytics platform to business clients. Sumo Logic employs
14 Sales Representatives, such as Claimants, to make sales to current and prospective customers.

15 4. While employed by Sumo Logic, Claimants and other Sales Representatives consistently
16 worked more than 8 hours per day and more than 40 hours per workweek without receiving overtime
17 compensation. During the relevant period, it was Sumo Logic’s policy to deprive Claimants of their
18 earned overtime wages in violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et*
19 *seq.*, the California Labor Code (“Cal. Lab. Code”) and applicable Wage Orders and regulations, and the
20 California Unfair Business Practices Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (collectively, the
21 “California Wage Laws”).

22 5. Sumo Logic uniformly classified its SDRs as exempt from federal and state overtime
23 provisions and did not to pay SDRs any overtime wages until on or around October 24, 2019, when it
24 reclassified SDRs as non-exempt.

25 6. Sumo Logic has uniformly classified its Mid-Markets as exempt from federal and state
26 overtime provisions and did not pay Mid-Markets any overtime wages during the relevant period and
27 through the present.

1 7. The primary duties of Sales Representatives are and have been non-exempt. These
2 primary duties do not vary significantly from one Sales Representative to another.

3 8. The primary duties of Sales Representatives do not fall under any of the exemptions
4 under federal or state overtime laws.

5 9. Sales Representatives have worked overtime hours, as defined by applicable federal and
6 state laws, and are entitled to premium compensation at the appropriate rate for all overtime hours
7 worked.

8 10. Claimants bring this action on behalf of themselves and similarly situated current and
9 former Sales Representatives employed by Sumo Logic who elect to opt-in to this action pursuant to the
10 FLSA, 29 U.S.C. §§ 201 *et seq.*, and specifically, the collective action provision of 29 U.S.C. § 216(b),
11 to remedy violations of the FLSA by Sumo Logic that have deprived Claimants and others similarly
12 situated of their lawfully earned wages.

13 11. Claimants also bring this action on behalf of themselves and all similarly situated current
14 and former Sales Representatives who have worked for Sumo Logic in California as a JAMS Class
15 Action Procedures Rule 3 and Fed. R. Civ. P. 23 class action under the California Wage Laws.

16 12. Claimants Falter and Saldivar also bring this action on behalf of themselves and all
17 similarly situated current and former Sales Representatives who worked for Defendants in California
18 from June 24, 2019 through the date of final disposition of this action (“Aggrieved Employees”) to
19 recover penalties pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code. §§
20 2698, *et seq.*, for violations of the California Labor Code as set forth herein.

21 **JURISDICTION & VENUE**

22 13. Section 2 of the Settlement Agreement provides that this matter will be arbitrated in
23 accordance with the JAMS Class Action Procedures. *See Exhibit A.*

24 14. Claimants Falter and Saldivar provided written notice to the California Labor and
25 Workforce Development Agency (“LWDA”) of the legal claims and theories of this case pursuant to
26 Cal. Lab. Code § 2699.3 and to Defendant. The LWDA has not taken any action with regard to the
27 claims, including providing notice of an intent to pursue the claims.

1
2 **THE PARTIES**

3 **Claimants**

4 ***Jessica Chiou***

5 15. Claimant Jessica Chiou is an adult individual who is a resident of San Francisco County,
6 California.

7 16. Claimant Chiou was employed by Sumo Logic as an SDR from approximately
8 September 2015 to approximately April 2016 in Redwood City, California.

9 17. Claimant Chiou was an “employee” within the meaning of all applicable statutes.

10 18. Claimant Chiou regularly worked more than 40 hours in a workweek and 8 in a day and
11 was not paid for the hours she worked over 40 in a week or 8 in a day. For example, to the best of her
12 recollection, during the last week of January 2016, Claimant Chiou worked approximately five to seven
13 overtime hours without proper overtime compensation.

14 ***Sam Falter***

15 19. Claimant Sam Falter is an adult individual who is a resident of Denver County, Colorado.

16 20. Claimant Falter was employed by Sumo Logic as an SDR from approximately August
17 2018 to June 2019 in Redwood City, California.

18 21. Claimant Falter was an “employee” within the meaning of all applicable statutes.

19 22. Claimant Falter regularly worked more than 40 hours in a workweek and 8 hours per day
20 and was not paid for the hours he worked over 40 in a week or 8 in a day. For example, to the best of
21 his recollection, during the last week of January 2019, Claimant Falter worked approximately 15
22 overtime hours without proper overtime compensation.

23 23. Claimant Falter’s written consent to join form is attached hereto as **Exhibit B**.

24 ***Vincent Saldivar***

25 24. Claimant Vincent Saldivar is an adult individual who is a resident of San Francisco,
26 California.

1 25. Claimant Saldivar was employed by Sumo Logic as an SDR from approximately
2 February 2018 to April 2019, and as a Mid-Market from May 2019 to August 2019 in Redwood City,
3 California.

4 26. Claimant Saldivar was an “employee” within the meaning of all applicable statutes.

5 27. Claimant Saldivar regularly worked more than 40 hours in a workweek and 8 hours in a
6 day and was not paid for the hours he worked over 40 in a week or 8 in a day. For example, to the best
7 of his recollection, during the third week of April 2019, Claimant Saldivar worked approximately 10
8 overtime hours without proper overtime compensation.

9 28. Claimant Saldivar’s written consent to join form is attached hereto as **Exhibit C**.

10 **Respondent Sumo Logic, Inc.**

11 29. Upon information and belief, Sumo Logic is a corporation formed under the laws of the
12 State of Delaware with a principal place of business in Redwood City, California.

13 30. Upon information and belief, Sumo Logic maintained control, oversight, and direction
14 over its operations and employment practices.

15 31. At all times hereinafter mentioned, Sumo Logic was Claimants’ “employer” within the
16 meaning of all applicable statutes.

17 32. At all relevant times, Sumo Logic maintained control, oversight, and direction over
18 Claimants and other Sales Representatives, including timekeeping, payroll, and other employment
19 practices that applied to them.

20 33. Sumo Logic has applied the same employment policies, practices, and procedures to
21 Sales Representatives, including policies, practices, and procedures with respect to payment of overtime
22 compensation.

23 34. Sumo Logic’s annual gross volume of business is not less than \$500,000 within the
24 meaning of 29 U.S.C. § 203(s)(A)(ii).

25 **FLSA COLLECTIVE ACTION CLAIMS**

26 35. Claimants Falter and Saldivar bring the First Cause of Action pursuant to the FLSA, 29
27 U.S.C. § 216(b), on behalf of themselves and all similarly situated persons who worked for Sumo Logic
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1 in the United States as SDRs from October 28, 2016 through October 28, 2019, or as Mid-Markets from
2 October 28, 2016 through the present, who elect to opt-in to this action (the “FLSA Collective”).

3 36. Upon information and belief, there are dozens of current and former Sales
4 Representatives who are similarly situated to Claimants and were denied overtime compensation.

5 37. Claimants are acting on behalf of current and former Sales Representatives’ interests as
6 well as their own interests in bringing this action.

7 38. All of the work that Claimants and the FLSA Collective have performed was assigned by
8 Sumo Logic, and/or Sumo Logic has been aware of all of the work that Claimants and the FLSA
9 Collective performed.

10 39. As part of its regular business practice, Sumo Logic has intentionally, willfully, and
11 repeatedly engaged in a pattern, practice and/or policy of violating the FLSA with respect to Claimants
12 and the FLSA Collective. This policy and pattern or practice has included, but is not limited to:

- 13 a. willfully failing to pay Claimants and the members of the FLSA Collective
14 overtime wages for hours that they worked in excess of 40 hours per workweek;
- 15 b. willfully misclassifying Claimants and the members of the FLSA Collective as
16 exempt from the protections of the FLSA; and
- 17 c. willfully failing to record the time that Claimants and the members of the FLSA
18 Collective worked for the benefit of Sumo Logic.

19 40. Sumo Logic was aware or should have been aware that federal law required it to pay
20 employees performing non-exempt duties, including Claimants and members of the FLSA Collective, an
21 overtime premium for hours worked in excess of 40 per workweek.

22 41. The FLSA Collective members are readily identifiable and can be located through the use
23 of Sumo Logic’s records. The FLSA Collective should be notified of and allowed to opt-in to this
24 action pursuant to 29 U.S.C. § 216(b). Unless the Court promptly issues such a notice, the FLSA
25 Collective, who have been unlawfully deprived of overtime pay in violation of the FLSA, will be unable
26 to secure compensation to which they are entitled, and which has been unlawfully withheld from them
27 by Sumo Logic.

1 **CALIFORNIA CLASS ALLEGATIONS**

2 42. Claimants bring the Second, Third, Fourth, Fifth, Sixth, and Seventh Causes of Action on
3 their own behalf and as a class action, pursuant to JAMS Class Action Procedures Rule 3 and Fed R.
4 Civ. P. 23, on behalf of the following class of persons:

5 All SDRs who worked for Sumo Logic in California at any time between
6 October 28, 2015 and October 28, 2019 and all Mid-Markets who worked
7 for Sumo Logic in California at any time between October 28, 2015 and the
8 present (hereinafter referred to as the “California Class” and the “California
Class Period,” respectively).

9 43. Excluded from the California Class are Sumo Logic’s legal representatives, officers,
10 directors, assigns, and successors, or any individual who has, or who at any time during the class period
11 has had, a controlling interest in Sumo Logic; the Judge(s) to whom this case is assigned and any
12 member of the Judge(s)’ immediate family; and all persons who will submit timely and otherwise proper
13 requests for exclusion from the California Class.

14 44. The persons in the California Class are so numerous that joinder of all members is
15 impracticable. Although the precise number of such persons is unknown, the facts on which the
16 calculation of that number can be based are presently within the sole control of Sumo Logic.

17 45. Upon information and belief, the size of the California Class is at least 100 individuals.

18 46. The Second, Third, Fourth, Fifth, Sixth, and Seventh Causes of Action are properly
19 maintainable as a class action under JAMS Class Action Procedures Rule 3 and Fed. R. Civ. P. 23(b)(3).
20 There are questions of law and fact common to the California Class that predominate over any questions
21 solely affecting individual members of the California Class, including but not limited to:

22 a. Whether Sumo Logic unlawfully failed to pay California Class members overtime
23 compensation owed, in violation of the California Labor Code and related
24 regulations, Cal. Lab. Code §§ 226, 510, 1174, 1174.5, and 1194; Cal. Wage
25 Order Nos. 4-2001 and 7-2001; and the California Unfair Competition Law, Cal.
26 Bus & Prof. Code §§ 17200, *et seq.*;

27 b. Whether California Class members were non-exempt employees entitled to
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- 1 overtime compensation for overtime hours worked under California law;
- 2 c. Whether Sumo Logic's policy and pattern or practice of classifying California
- 3 Class Members as exempt from overtime entitlement under California law and
- 4 Sumo Logic's policy and pattern or practice of failing to pay overtime to
- 5 California Class members violated applicable provisions of California law;
- 6 d. Whether Sumo Logic has unlawfully failed to keep and furnish the California
- 7 Class members with timely, accurate, and itemized records of hours worked in
- 8 violation of Cal. Lab. Code §§ 226 and 1174;
- 9 e. Whether Sumo Logic has unlawfully failed to timely pay wages due during
- 10 employment and upon separation in violation of Cal. Lab. Code §§ 201, 202, 203,
- 11 and 204;
- 12 f. Whether the Sumo Logic has unlawfully failed to furnish the California Class
- 13 members with proper meal breaks, in violation of the California Labor Code and
- 14 related regulations, Cal. Lab. Code §§ 226.7, 512 and applicable wage orders; and
- 15 g. The nature and extent of the California Class members' injuries and the
- 16 appropriate measure of their damages.

17 47. Claimants will fairly and adequately represent and protect the interests of the members of

18 the California Class. Claimants understand that as class representatives they assume a fiduciary

19 responsibility to the class to represent its interests fairly and adequately. Claimants recognize that as

20 class representatives they must represent and consider the interests of the class just as they would

21 represent and consider their own interests. Claimants understand that in decisions regarding the conduct

22 of the litigation and its possible settlement, they must not favor their own interests over the interests of

23 the class. Claimants recognize that any resolution of a class action must be in the best interest of the

24 class. Claimants understand that in order to provide adequate representation, they must be informed of

25 developments in litigation, cooperate with class counsel, and testify at deposition and/or trial. Claimants

26 have retained counsel competent and experienced in complex class actions and employment litigation.

27 There is no conflict between Claimants and the California Class members.

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1 48. A class action is superior to other available methods for the fair and efficient adjudication
2 of this litigation. The members of the California Class were damaged and are entitled to recovery as a
3 result of Sumo Logic's violation of the California Wage Laws as well as its common and uniform
4 policies, practices, and procedures. Although the relative damages suffered by individual members of
5 the California Class are not *de minimis*, such damages are small compared to the expense and burden of
6 individual prosecution of this litigation. The individual Claimants lack the financial resources to
7 conduct a thorough examination of Sumo Logic's timekeeping and compensation practices and to
8 prosecute vigorously a lawsuit against Sumo Logic to recover such damages. In addition, class
9 litigation is superior because it will obviate the need for unduly duplicative litigation that might result in
10 inconsistent judgments about Sumo Logic's practices.

11 49. Further, Claimants and the California Class have been equally affected by Sumo Logic's
12 failure to pay proper wages and other violations. Moreover, members of the California Class still
13 employed by Sumo Logic may be reluctant to raise individual claims for fear of retaliation.

14 50. Sumo Logic has acted or refused to act on grounds generally applicable to the California
15 Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect
16 to the class as a whole

17 51. Claimants' claims are typical of the claims of the California Class members they seek to
18 represent. Claimants and all members of the California Class worked for Sumo Logic as Sales
19 Representatives in the State of California. Claimants and members of the California Class enjoy the
20 same statutory rights under the California Wage Laws to be paid overtime wages. Claimants and
21 members of the California Class all sustained similar types of damages as a result of Sumo Logic's
22 failure to comply with the California Wage Laws. Claimants and the members of the California Class
23 all were injured in that they were uncompensated or under-compensated due to Sumo Logic's common
24 policies, practices and patterns of conduct.

25 **COMMON FACTUAL ALLEGATIONS**

26 52. Claimants and the members of the FLSA Collective and the California Class
27 (collectively, "Class Members") have been victims of Sumo Logic's common policy and plan of
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1 improperly classifying Sales Representatives as overtime exempt, requiring them to work in excess of
2 40 hours per week and in excess of 8 hours per day, and denying them overtime compensation. At all
3 times relevant, Sumo Logic's unlawful policy and pattern or practice has been willful.

4 53. Sales Representatives' primary duties were non-exempt duties, specifically, identifying
5 business opportunities, engaging with potential and existing customers by phone, email, social media,
6 and web meetings, and making sales of Sumo Logic's products.

7 54. Although Sales Representatives were eligible to earn commissions based on various
8 performance indicators, these commissions did not constitute the majority of their earnings.

9 55. Throughout their employment, Claimants and Class Members consistently worked more
10 than 40 hours per week and 8 hours per day.

11 56. Sumo Logic was aware that Claimants and the Class Members worked more than 40
12 hours per workweek and 8 hours per day yet failed to pay them any overtime compensation.

13 57. Sumo Logic did not keep accurate records of hours worked by Claimants. That is,
14 Claimants' hours were not accurately recorded on pay stubs, and Sumo Logic did not require Claimants
15 to clock in or out, or otherwise record their time.

16 58. Sumo Logic failed to pay Claimants and Class Members time and one-half for all hours
17 worked over 40 in a workweek in violation of the FLSA.

18 59. Sumo Logic failed to pay Claimants and California Class members overtime
19 compensation for all of their overtime hours worked, including for any of the overtime hours they
20 worked over 8 in a workday and over 40 in a workweek.

21 60. Sumo Logic failed to furnish Claimants and the California Class members with an
22 accurate itemized statement showing, *inter alia*, wages, hours worked, and rates paid as required by the
23 California Wage Laws.

24 61. Sumo Logic failed to timely pay Claimants and the California Class Members all wages
25 earned and unpaid at the time of separation from employment.

26 62. Claimants and all California Class members who ceased employment with Sumo Logic
27 are entitled to unpaid compensation, but to date have not received such compensation.

1 63. Sumo Logic failed to timely pay Claimants and the California Class Members all wages
2 due and payable twice during each calendar month, on days designated in advance by the employer as
3 regular pay days.

4 64. Sumo Logic failed to provide Claimants and California Class members with at least a
5 half-hour meal break in which they were relieved of all duty, and, for shifts of more than ten-hours, a
6 second half-hour meal break in which they were relieved of all duty, as required by the California Wage
7 Laws.

8 65. As part of its regular business practice, Sumo Logic intentionally, willfully, and
9 repeatedly engaged in a pattern, practice, and/or policy that violates the FLSA and California Wage
10 Laws.

11 66. Sumo Logic's policy and pattern or practice includes but is not limited to:

- 12 a. willfully misclassifying Claimants and Class Members as exempt from the
- 13 protections of federal and state overtime laws;
- 14 b. willfully failing to record the time that its employees, including Claimants and
- 15 Class Members, worked for the benefit of Sumo Logic;
- 16 c. willfully failing to keep payroll records as required by the FLSA and California
- 17 Wage Laws; and
- 18 d. willfully failing to pay its employees, including Claimants and Class Members,
- 19 overtime wages for all of the overtime hours that they worked.

20 67. Sumo Logic was or should have been aware that the FLSA required it to pay its Sales
21 Representatives overtime compensation for all hours worked in excess of 40 per week.

22 68. Sumo Logic's failure to pay Claimants and Class Members overtime wages for their
23 work in excess of 40 hours per week was willful, intentional, and in bad faith.

24 69. Sumo Logic's unlawful conduct has been widespread, repeated, and consistent.

25 **FIRST CAUSE OF ACTION**

26 **FLSA – Overtime Wages**

27 **29 U.S.C. §§ 201, *et seq.***

28 **(Brought by Claimants Individually and on Behalf of the FLSA Collective)**

1 70. Claimants reallege and incorporate by reference all allegations in all preceding
2 paragraphs.

3 71. Sumo Logic has engaged in a widespread pattern and practice of violating the FLSA, as
4 described in this Class and Collective Action Demand for Arbitration.

5 72. Claimants have expressed their consent to make these claims against Sumo Logic by
6 filing a written consent form, pursuant to 29 U.S.C. § 216(b).

7 73. Claimants and members of the FLSA Collective are and were non-exempt employees
8 entitled to be paid overtime compensation for all overtime hours worked.

9 74. At all relevant times, Claimants and other similarly situated current and former
10 employees were engaged in commerce and/or the production of goods for commerce within the meaning
11 of 29 U.S.C. § 207(a).

12 75. The overtime wage provisions set forth in §§ 201, *et seq.* of the FLSA apply to Sumo
13 Logic.

14 76. Sumo Logic is an employer engaged in commerce and/or the production of goods for
15 commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

16 77. At all times relevant, Claimants were employees within the meaning of 29 U.S.C. §§
17 203(e) and 207(a).

18 78. Sumo Logic has failed to pay Claimants and other similarly situated current and former
19 employees the overtime wages to which they were entitled under the FLSA.

20 79. Sumo Logic's violations of the FLSA, as described in this Demand, have been willful
21 and intentional.

22 80. Sumo Logic failed to make a good faith effort to comply with the FLSA with respect to
23 its compensation of Claimants and other similarly situated current and former employees.

24 81. Because Sumo Logic's violations of the FLSA are willful, a three-year statute of
25 limitations applies, pursuant to 29 U.S.C. § 255.

1 82. As a result of Sumo Logic's willful violations of the FLSA, Claimants and all other
2 similarly situated employees have suffered damages by being denied overtime wages in accordance with
3 29 U.S.C. §§ 201, *et seq.*

4 83. As a result of the unlawful acts of Sumo Logic, Claimants and other similarly situated
5 current and former employees have been deprived of overtime compensation and other wages in
6 amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages,
7 prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. § 216(b).

8 **SECOND CAUSE OF ACTION**

9 **California Wage Laws – Overtime Wages**

10 **California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 510, 1194**
11 **(Brought by Claimants Individually and on Behalf of the California Class)**

12 84. Claimants reallege and incorporate by reference all allegations in all preceding
13 paragraphs.

14 85. California law requires employers, such as Sumo Logic, to pay overtime compensation to
15 all non-exempt employees for all hours worked over 40 per workweek and over 8 per day.

16 86. Claimants and the California Class members are and were non-exempt employees
17 entitled to be paid overtime compensation for all overtime hours worked.

18 87. At all relevant times, Claimants and the California Class members worked in excess of
19 40 hours in a workweek and 8 hours in a workday.

20 88. At all relevant times, Sumo Logic failed and refused to pay Claimants and the California
21 Class members overtime compensation.

22 89. As a direct and proximate result of Sumo Logic's unlawful conduct, as set forth herein,
23 Claimants and the California Class members have sustained damages, including loss of earnings for
24 hours of overtime worked for the benefit of Sumo Logic in an amount to be established at trial,
25 prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.
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1 **THIRD CAUSE OF ACTION**

2 **California Wage Laws – Record-Keeping Violations**
3 **California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 226, 1174, & 1174.5**
4 **(Brought by Claimants Individually and on Behalf of the California Class)**

5 90. Claimants reallege and incorporate by reference all allegations in all preceding
6 paragraphs.

7 91. Sumo Logic knowingly and intentionally failed to provide timely, accurate, itemized
8 wage statements including, *inter alia*, all hours worked, to Claimants and the California Class members
9 in accordance with California Wage Order Nos. 4-2001 and 7-2001 and California Labor Code § 226(a).
10 Such failure has caused injury to Claimants and the California Class members, by, among other things,
11 impeding them from knowing the amount of wages to which they are and were entitled. At all times
12 relevant herein, Sumo Logic has failed to maintain accurate records of hours worked by Claimants and
13 the California Class members as required under Labor Code § 1174(d).

14 92. Claimants and the California Class members are entitled to and seek injunctive relief
15 requiring Sumo Logic to comply with California Labor Code §§ 226(a) and 1174(d), and further seek
16 the amount provided under California Labor Code §§ 226(e) and 1174.5, including the greater of all
17 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
18 hundred dollars (\$100) per employee for each violation in a subsequent pay period.

19 **FOURTH CAUSE OF ACTION**

20 **California Wage Laws – Wage Payment Provisions**
21 **Cal. Lab. Code §§ 201, 202, & 203**
22 **(Brought by Claimants Individually and on Behalf of the California Class)**

23 93. Claimants reallege and incorporate by reference all allegations in all preceding
24 paragraphs.

25 94. California Labor Code §§ 201 and 202 require Sumo Logic to pay its employees all
26 wages due upon termination within the time specified by law. California Labor Code § 203 provides
27 that if an employer willfully fails to timely pay such wages, the employer must continue to pay the
28 subject employees' wages until the back wages are paid in full or an action is commenced, up to a
maximum of thirty (30) days of wages.

1 95. Claimants and all California Class members who ceased employment with Sumo Logic
2 are entitled to unpaid compensation, but to date have not received such compensation.

3 96. More than thirty (30) days have passed since Claimants and certain California Class
4 members left Sumo Logic's employ.

5 Claimants, on behalf of themselves and the California Class members, seek waiting time penalties
6 pursuant to California Labor Code § 203, attorneys' fees and costs, and such other legal and equitable
7 relief as the Court deems just and proper.

8 **FIFTH CAUSE OF ACTION**

9 **California Wage Laws – Wage Payment Provisions**

10 **Cal. Lab. Code §§ 204 & 210**

11 **(Brought by Claimants Individually and on Behalf of the California Class)**

12 97. Claimants reallege and incorporate by reference all allegations in all preceding
13 paragraphs.

14 98. Under California Labor Code § 204, labor performed between the 1st and 15th days of a
15 calendar month must be paid for between the 16th and the 26th of that month, and labor performed
16 between the 16th and the last day of a calendar month must be paid for between the 1st and the 10th day
17 of the following month. Other payroll periods such as weekly, biweekly (every two weeks) or
18 semimonthly (twice per month), when the earning period is something other than between the 1st and
19 15th, and 16th and last day of the month, must be paid within seven calendar days of the end of the
20 payroll period within which the wages were earned.

21 99. California Labor Code § 210(a) provides that persons who fail to pay wages as provided
22 in § 204 are subject to statutory penalties of: (1) one hundred dollars (\$100) for each failure to pay each
23 employee for any initial violation; and (2) two hundred dollars (\$200) for each failure to pay each
24 employee, plus 25 percent of the amount unlawfully withheld, for each subsequent violation, or any
25 willful or intentional violation.

26 100. Sumo Logic failed to pay Claimants and California Class members all of their wages
27 earned in a timely manner, in violation of California Labor Code § 204.

28 101. Claimants, on behalf of themselves and the California Class members, seeks waiting time

1 penalties pursuant to California Labor Code § 210, attorneys' fees and costs, and such other legal and
2 equitable relief as the Court deems just and proper.

3 **SIXTH CAUSE OF ACTION**

4 **California Wage Laws – Meal Period Provisions**
5 **Cal. Wage Order Nos. 4-2001 & 7-2001; Cal. Labor Code §§ 218.5, 226.7, & 512**
6 **(Brought by Claimants Individually and on Behalf of the California Class)**

7 102. Claimants reallege and incorporate by reference all allegations in all preceding
8 paragraphs.

9 103. Claimants and the California Class members regularly work and have worked in excess
10 of five-hour shifts without being afforded at least a half-hour meal break in which they were relieved of
11 all duty, and more than ten-hour shifts without being afforded a second half-hour meal break in which
12 they were relieved of all duty, as required by California Labor Code §§ 226.7 and 512 and Wage Order
13 Nos. 4-2001 and 7-2001, § 11.

14 104. As a result of Sumo Logic's failure to afford proper meal periods, Sumo Logic is liable to
15 Claimants and the California Class members for one hour of additional pay at the regular rate of
16 compensation for each workday that the proper meal periods were not provided, pursuant to Labor Code
17 § 226.7 and Wage Order Nos. 4-2001 and 7-2001, § 11.

18 **SEVENTH CAUSE OF ACTION**

19 **California Wage Laws – Unfair Competition**
20 **California Business & Professions Code §§ 17200, *et seq.***
21 **(Brought by Claimants Individually and on Behalf of the California Class)**

22 105. Claimants reallege and incorporate by reference all allegations in all preceding
23 paragraphs.

24 106. The foregoing conduct, as alleged, violates the California Unfair Competition Law
25 (“UCL”). The UCL prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair
26 business acts or practices.

27 107. Beginning at a date unknown to Claimants, but at least as long ago as four years prior to
28 the filing of this action, Sumo Logic committed, and continued to commit, acts of unfair competition, as
defined by the UCL, by, among other things, engaging in the acts and practices described herein. Sumo

Logic's conduct as alleged herein has injured Claimants and the California Class members by wrongfully denying them earned wages, and therefore was substantially injurious to them.

108. Sumo Logic engaged in unfair competition in violation of the UCL by violating, *inter alia*, each of the following laws. Each of these violations constitutes an independent and separate violation of the UCL:

- a. FLSA, 29 U.S.C. §§ 201, *et seq.*;
- b. Cal. Lab. Code §§ 201-204;
- c. Cal. Lab. Code § 1194;
- d. Cal. Lab. Code § 226;
- e. Cal. Lab. Code § 1174; and
- f. Cal. Lab. Code § 510.

109. Sumo Logic's course of conduct, acts, and practices in violation of the California laws mentioned in the above paragraph constitute a separate and independent violation of the UCL. Sumo Logic's conduct described herein violates the policy or spirit of such laws or otherwise significantly threatens or harms competition.

110. The unlawful and unfair business practices and acts of Sumo Logic, described above, have injured Claimants and the California Class members in that they were wrongfully denied the payment of earned overtime wages.

111. Claimants, individually and on behalf of the California Class, seek recovery of attorneys' fees and costs of this action to be paid by Sumo Logic, as provided by the UCL and California Labor Code §§ 218, 218.5, and 1194.

112. Claimants, individually and on behalf of the California Class, seek restitution in the amount of the respective unpaid wages earned and due, including for unpaid overtime at a rate not less than one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek, or 8 hours in a day, and double the regular rate of pay for work performed in excess of 12 hours per day.

1 **EIGHTH CAUSE OF ACTION**

2 **Private Attorneys General Act**

3 **Cal. Lab. Code §§ 2698, *et seq.***

4 **(Brought by Claimants Falter and Saldivar Individually and on Behalf of the Aggrieved Employees)**

5 113. Claimants Falter and Saldivar, on behalf of themselves and all Aggrieved Employees,
6 reallege and incorporate by reference all other paragraphs as if they were set forth again herein.

7 114. Claimants are Aggrieved Employees under PAGA, as they were employed by Sumo
8 Logic during the applicable period and suffered one or more of the California Labor Code violations set
9 forth herein. Accordingly, they seek to recover on behalf of themselves and all other current and former
10 Aggrieved Employees of Sumo Logic, the civil penalties provided by PAGA, plus reasonable attorney's
11 fees and costs.

12 115. Claimants seek civil penalties pursuant to PAGA for violations of the following
13 California Labor Code provisions:

14 a. Failure to pay overtime wages in violation of California Labor Code §§ 510, 558, 1994
15 and 1998 and Wage Order Nos. 4-2001 & 7-2001;

16 b. Failure to provide meal and rest breaks in violation of California Labor Code §§ 218.5,
17 226.7, 512, and Wage Order Nos. 4-2001 & 7-2001;

18 c. Failure to provide itemized wage statements in violation of California Labor Code §§ 226
19 and 226.3; and

20 d. Failure to provide prompt payment of wages during employment and upon termination
21 and resignation in violation of California Labor Code §§ 201, 202, 203, and 204.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Claimants, individually and on behalf of the FLSA Collective, California Class,
24 and Aggrieved Employees, request the following relief:

- 25 A. Designation of this action as a collective action and prompt issuance of notice pursuant to
26 29 U.S.C. § 216(b) to all similarly situated members of the FLSA Collective, apprising
27 them of the pendency of this action, and permitting them to file individual Consent to
28 Join forms pursuant to 29 U.S.C. § 216(b);

- 1 B. Certification of this action as a class action on behalf of the California Class;
2 C. Designation of Claimants as Representatives of the California Class they seek to
3 represent;
4 D. Designation of Claimants' counsel of record as Class Counsel for the California Class;
5 E. An award of damages, liquidated damages, and restitution, to be paid by Sumo Logic
6 according to proof;
7 F. Appropriate statutory penalties;
8 G. Appropriate equitable and injunctive relief to remedy violations, including but not
9 necessarily limited to an order enjoining Sumo Logic from continuing its unlawful
10 practices under the FLSA and/or California Wage Laws and/or a declaration that Sumo
11 Logic's acts violate the FLSA and/or California Wage Laws;
12 H. Reasonable service awards for Claimants to compensate them for the time they spent
13 attempting to recover wages for the FLSA Collective and/or California Class members
14 and for the risks they took in doing so;
15 I. Civil penalties provided, per violation, under the California Private Attorneys General Act,
16 California Labor Code §§ 2698, *et seq.*;
17 J. Attorneys' fees and costs of suit;
18 K. Pre- and post-judgment interest, as provided by law; and
19 L. Such other relief as this Court deems necessary, just, and proper.

20 Dated: New York, New York
21 October 14, 2020

Respectfully submitted,

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