

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: GEMALTO COGENT, INC., a Delaware
(AVISO AL DEMANDADO): corporation, and DOES 1 through 10,
inclusive

YOU ARE BEING SUED BY PLAINTIFF: OPHELIA OU, on behalf of
(LO ESTÁ DEMANDANDO EL DEMANDANTE): herself and all
similarly situated employees, and on behalf of all
"aggrieved employees" pursuant to Labor Code § 2698 et seq.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

3/30/21

SUPERIOR COURT
COUNTY OF IMPERIAL
CLERK OF THE COURT
BY Nelly Torres, DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Imperial
939 West Main Street
El Centro, California 92243

CASE NUMBER:
(Número del Caso):

ECU001834

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gaines & Gaines, APLC
27200 Agoura Road, Suite 101, Calabasas, CA 91301

818-703-8985

DATE: (Fecha) 3/30/21 Maria Rhinehart / Clerk of Court Clerk, by (Secretario) N. Torres, Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alex P. Katofsky, Esq. SBN: 202754 Gaines & Gaines, APLC 27200 Agoura Road, Suite 101, Calabasas, CA 91301 TELEPHONE NO.: 818-703-8985 FAX NO.: 818-703-8984 ATTORNEY FOR (Name): Plaintiff, Ophelia Ou		FOR COURT USE ONLY FILED 3/30/21 SUPERIOR COURT COUNTY OF IMPERIAL CLERK OF THE COURT BY <u>Nelly Torres</u> , DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL STREET ADDRESS: 939 West Main Street MAILING ADDRESS: 939 West Main Street CITY AND ZIP CODE: El Centro, 92243 BRANCH NAME: El Centro Courthouse		CASE NUMBER: ECU001834	
CASE NAME: Ou v. Gemalto Cogent, Inc., et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		JUDGE: Jeffrey B. Jones DEPT: 7	

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 (<i>not specified above</i>) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (<i>not specified above</i>) (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*): Seven (7)
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: 3/29/21

Alex P. Katofsky, Esq.
 (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.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

FILED

3/30/21

SUPERIOR COURT
COUNTY OF IMPERIAL
CLERK OF THE COURT
BY Nelly Torres, DEPUTY

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Assigned for all purposes to
Judge Jeffrey B. Jones
including trial

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Attorneys for Plaintiff Ophelia Ou, on behalf of herself and all similarly situated employees, and on behalf of all "aggrieved employees" pursuant to Labor Code § 2698 et seq.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF IMPERIAL**

OPHELIA OU, on behalf of herself and all
similarly situated employees, and on behalf of
all "aggrieved employees" pursuant to Labor
Code § 2698 et seq,

Plaintiffs,

v.

GEMALTO COGENT, INC., a Delaware
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: ECU001834

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

**1. FAILURE TO PAY ALL WAGES DUE
(LABOR CODE §§ 510, 558, AND 1194;
IWC WAGE ORDER 4-2001)**

**2. FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 4-2001)**

**3. FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7 AND
512; IWC WAGE ORDER 4-2001)**

**4. KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE §§ 226(a), (e), (h))**

**5. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION OF**

EMPLOYMENT (LABOR CODE §§ 201-203)**6. VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200****7. PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 201-202, 226(a), 226.7, 510, 512, 558, AND 1194 AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3****DEMAND FOR JURY TRIAL**

Plaintiff OPHELIA OU (“Plaintiff”), individually and on behalf of all similarly situated individuals (the “Class” or “Plaintiff Class”), and on behalf of the general public, and as an “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004, complains of Defendants, and each of them, as follows:

I.**INTRODUCTION AND FACTUAL BACKGROUND**

1. This is a Class Action and Representative Action, pursuant to Code of Civil Procedure § 382 and Labor Code § 2698 *et seq.*, on behalf of Plaintiff and all other non-exempt employees who work or formerly worked for GEMALTO COGENT, INC., a Delaware corporation, together with its successors and predecessors Gemalto, Inc., Thales DIS USA, Inc., and 3M Cogent, Inc. (together, the “Defendants”) within the State of California.

2. From June 23, 2016 through the present (the “liability period”) Defendants have had consistent policies of failing to pay all wages due and owing to Class Members (as defined below) during the course of their employment; failing to provide legally compliant meal and rest periods or compensation in lieu thereof to Class Members; failing to provide accurately itemized wage statements to Class Members; and failing to timely pay wages upon separation of employment to Class Members.

3. Plaintiff, on behalf of herself and members of the Class, brings this action pursuant to Labor Code §§ 201-203, 226(a), 226.3, 226.7, 510, 512, 558, and 1194 seeking compensation for all

1 unpaid wages, statutory penalties, injunctive and other equitable relief, and reasonable attorneys' fees
2 and costs.

3 4. Plaintiff, on behalf of herself and members of the Class and pursuant to Business &
4 Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all
5 benefits Defendants enjoyed from their failure to pay all wages to Class Members.

6 5. Plaintiff, on behalf of herself and all aggrieved employees pursuant to Labor Code §§
7 2698 *et seq.*, seeks penalties for Defendants' various violations of the California Labor Code.

8 6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.

9 II.

10 PARTIES

11 A. Plaintiff

12 7. Plaintiff Ophilia Ou was employed by Defendants during the relevant period as a non-
13 exempt employee in California.

14 8. During her work with Defendants, Plaintiff was:

- 15 a. Willfully denied the payment of all wages due;
- 16 b. Willfully denied rest periods or compensation in lieu thereof;
- 17 c. Willfully denied meal periods or compensation in lieu thereof;
- 18 d. Willfully denied accurately itemized wage statements; and
- 19 e. Denied the timely payment of wages upon separation of her employment.

20 B. Defendants

21 9. Defendant GEMALTO CONGENT, INC., is a Delaware corporation which has done
22 business in California during the applicable Class Period.

23 10. The true names and capacities, whether individual, corporate, associate, or otherwise,
24 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
25 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
26 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
27 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
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1 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
2 designated hereinafter as DOES when such identities become known.

3 11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
4 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
5 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
6 attributable to the other Defendants.

7 12. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
8 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
9 provisions of the California Labor Code as alleged herein.

10 **III.**

11 **CLASS ACTION ALLEGATIONS**

12 13. Plaintiff brings this action on behalf of herself and all others similarly situated as a
13 Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent the
14 following class composed of and defined as follows:

15 **THE CLASS**

16 All current and former non-exempt California employees of Defendant
17 or its successors/predecessors (Gemalto, Inc., Thales DIS USA, Inc.,
18 and 3M Cogent, Inc.) employed from June 23, 2016 through the earlier
19 of May 26, 2021 or the date the Court enters an order granting
20 preliminary approval of this Settlement.

21 14. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or
22 modify this class description with greater specificity or further division into subclasses or limitation
23 to particular issues.

24 15. This action has been brought and may properly be maintained as a class action under
25 the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of
26 interest in the litigation and the proposed Class is easily ascertainable.

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A. Numerosity

16. The potential members of the Class as defined are so numerous that joinder of all the members the Class is impracticable. While the precise number of members of the Class has not been ascertained at this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants currently employ, and during the relevant time periods employed, over 35 persons in the State of California who fall within the Class definition.

17. Accounting for employee turnover during the relevant period necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of members of the Class. Joinder of members of the Class is not practicable.

B. Commonality

18. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether Defendants failed to pay Plaintiff and Class Members all wages due, in violation of Labor Code Labor Code §§ 510, 558, and 1194 and IWC Wage Order 4-2001;
- b. Whether Defendants failed to properly provide rest periods or compensation in lieu thereof to Plaintiff and Class Members, in violation of Labor Code § 226.7 and IWC Wage Order 4-2001;
- c. Whether Defendants failed to properly provide meal periods or compensation in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §§ 226.7 and 512, and IWC Wage Order 4-2001;
- d. Whether Defendants failed to provide Plaintiff and members of the Class with accurately itemized wage statements, in accordance with Labor Code §§ 226(a), (e), and (h), and 226.3;
- e. Whether Defendants failed to timely pay Plaintiff and members of the Class all wages due and owing at the separation of their employment, in violation of Labor Code §§ 201-203; and

f. Whether Plaintiff and Class Members are entitled to equitable relief pursuant to Business & Professions Code § 17200 *et seq.*

C. Typicality

19. The claims of the named Plaintiff are typical of the claims of members of the Class. Plaintiff and members of the Class sustained injuries and damages arising out of and caused by Defendants’ common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

D. Adequacy of Representation

20. Plaintiff will fairly and adequately represent and protect the interests of members of the Class. Counsel who represents Plaintiff are competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

21. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed members of the Class is not practicable, and questions of law and fact common to the proposed Class predominate over any questions affecting only individual members of the proposed Class. Each member of the proposed Class has been damaged and is entitled to recovery by reason of Defendants’ illegal policies and/or practices.

22. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

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IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PAY ALL WAGES DUE

(LABOR CODE §§ 510, 558, AND 1194 AND IWC WAGE ORDER 4-2001)

23. Plaintiff incorporates paragraphs 1 through 22 of this Complaint as though fully set forth herein.

24. During the liability period, Defendants failed to pay all minimum and overtime wages earned during the course of employment, when Plaintiff and Class Members worked on-call hours, in violation of Labor Code §§ 510, 558 and 1194 and IWC Wage Order 4-2001. An employer is obligated to pay the wages of an hourly employee for all the time the employee is under the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so. Plaintiff and Class Members were required to work on-call hours while at home, which precluded them from engaging in personal activities. Defendants failed to pay them for these hours. These failures to pay all minimum and overtime wages due constitute violations of Labor Code §§ 510, 558 and 1194 and IWC Wage Order No. 4-2001.

25. As a result of the unlawful acts of Defendants in willfully failing to pay all wages, Plaintiff and Class Members have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs pursuant to Labor Code §§ 510, 558, and 1194.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

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V.

SECOND CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE § 226.7 AND IWC WAGE ORDER 4-2001)

26. Plaintiff incorporates paragraphs 1 through 25 of this Complaint as though fully set forth herein.

27. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and IWC Wage Order 9-2001.

28. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied rest periods, in violation of Labor Code §§ 226.7 and IWC Wage Order No. 4-2001. Plaintiff and Class Members were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. When they were able to take a rest period, they were oftentimes late, cut short or on-duty, in violation of Labor Code §§ 226.7 and IWC Wage Order No. 4-2001.

29. Pursuant to Labor Code § 226.7 and IWC Wage Order 4-2001, Plaintiff seeks the payment of all rest period compensation which she and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

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VI.

THIRD CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE §§ 226.7 AND 512 AND IWC WAGE ORDER 4-2001)

30. Plaintiff incorporates paragraphs 1 through 29 of this Complaint as though fully set forth herein.

31. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7, 512 and IWC Wage Order 4-2001.

32. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage Order 4-2001. Plaintiff and Class Members were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or second meal period. When they were able to take a meal period, they were oftentimes, late, cut short, or on-duty, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order 4-2001.

33. Pursuant to Labor Code §§ 226.7, 512 and IWC Wage Order 4-2001, Plaintiff seeks the payment of all meal period compensation which she and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

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VII.**FOURTH CAUSE OF ACTION****PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS****KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED****EMPLOYEE WAGE STATEMENT PROVISIONS****(LABOR CODE §§ 226(a), (e), and (h))**

34. Plaintiff incorporates paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide 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. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

36. Defendants failed to provide Plaintiff and Class Members with wage statements that fully and accurately her itemized the requirements set forth in Labor Code § 226(a). Plaintiff and Class Members were not paid all wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(9) and 226.3.

VIII.

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

SEPARATION OF EMPLOYMENT (LABOR CODE §§ 201-203)

38. Plaintiff incorporates paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

40. Defendants failed to pay Plaintiff and certain Class Members all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, Plaintiff and certain Class Members were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment.

1 41. More than 30 days have passed since Plaintiff and certain Class Members have left
2 Defendants' employ.

3 42. As a consequence of Defendants' willful conduct in not paying wages owed timely
4 upon separation of employment, Plaintiff and certain members of the Class are entitled to up to 30
5 days' wages as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages
6 at separation of employment.

7 Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

8 **IX.**

9 **SIXTH CAUSE OF ACTION**

10 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

11 **UNFAIR COMPETITION PURSUANT TO**

12 **BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

13 43. Plaintiff incorporates paragraphs 1 through 42 of this Complaint as though fully set
14 forth herein.

15 44. This is a Class Action for Unfair Business Practices. Plaintiff, on her own behalf and
16 on behalf of the general public, and on behalf of others similarly situated, brings this claim pursuant
17 to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this
18 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public,
19 and members of the Class. Plaintiff seeks to enforce important rights affecting the public interest
20 within the meaning of Code of Civil Procedure § 1021.5.

21 45. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204,
22 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
23 appropriate equitable relief.

24 46. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
25 practices.

26 47. Wage and hour laws express fundamental public policies. Properly providing
27 employees with all wages due are fundamental public policies of this State and of the United States.
28 Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor

standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and its employees from competitors who lower their costs by failing to comply with minimum labor standards.

48. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff, and all persons similarly situated, and all interested persons of rights, benefits, and privileges guaranteed to all employees under law.

49. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of §17200 *et seq.* of the Business & Professions Code.

50. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise of reasonable care should have known that the conduct was unlawful. As such, it is a violation of § 17200 *et seq.* of the Business & Professions Code.

51. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others similarly situated have been damaged in a sum as may be proven.

52. Unless restrained by this Court, Defendants will continue to engage in the unlawful conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited to, disgorgement of profits which may be necessary to restore Plaintiff and members of the Class to the money Defendants have unlawfully failed to pay.

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X.

SEVENTH CAUSE OF ACTION

PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS

**PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201-202, 226(a), 226.7, 510, 512, 558, 1194 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3**

53. Plaintiff incorporates paragraphs 1 through 52 of this Complaint as though fully set forth herein.

54. As a result of the acts alleged above, including the Labor Code violations set forth herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.*

55. For each such violation, Plaintiff and all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201-202, 226(a), 226.7, 510, 512, 558, and 1194; and

b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3.

56. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

57. On June 23, 2020, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of June 23, 2020. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the aggrieved employees she seeks to represent request relief as described below.

XI.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages pursuant to Labor Code §§ 1194 in the amount of all unpaid wages due to Plaintiff and Class Members;
2. For compensatory damages in the amount of one hour of wages for each day on which a meal and/or rest period was not properly provided to Plaintiff and Class Members pursuant to Labor Code § 226.7;
3. For penalties pursuant to Labor Code § 226(e) for Plaintiff and members of the Class;
4. For penalties pursuant to Labor Code § 203 for Plaintiff and members of the Class who are no longer employed by Defendants;
5. An award of prejudgment and post-judgment interest;
6. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.* for Plaintiff and Class Members;
7. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
8. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;
9. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and
10. Such other and further relief as this Court may deem just and proper.

Dated: March 29, 2021

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: Daniel F. Gaines
DANIEL F. GAINES
ALEX P. KATOFISKY
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: March 29, 2021

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: *Daniel F. Gaines*
DANIEL F. GAINES
ALEX P. KATOFISKY
Attorney for Plaintiff

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF IMPERIAL**
939 Main Street
El Centro, California 92243

Ophelia Ou	)	Case No. ECU001834
Plaintiff/Petitioner,	)	
	)	Notice of:
vs.	)	
	)	Case Management Conference
Gemalto Cogent INC	)	
Defendant/Respondent.	)	
	)	

**ALEX KATOFISKY
GAINES & GAINES, APLC
27200 AGOURA RD Suite 101
AGOURA HILLS, CA 91301**

1. Notice is given that a **CASE MANAGEMENT CONFERENCE** has been scheduled as follows:
Case Management Conference: September 27, 2021 at 8:30 AM in El Centro Dept. 7.
2. You must file and serve a completed Case Management Conference Statement at least fifteen (15) days before the case management conference.
3. You must be familiar with the case and be fully prepared to participate effectively in the case management conference.
4. At the case management conference the court may make pretrial orders, including the following:
 - a) An order establishing a discovery schedule.
 - b) An order referring the case to arbitration.
 - c) An order dismissing fictitious defendants.
 - d) An order scheduling exchange of expert witness information.
 - e) An order setting subsequent conferences and the trial date.
 - f) Other orders to achieve the goals of the Trial Court Delay Reduction Act (Gov. Code § 68600 et seq.).
5. Parties wishing to appear by telephone must comply with CRC 3.670 and Local Rule 3.8.6.
6. **SANCTIONS:** If you do not file the Case Management Conference Statement required by CRC 3.725, or attend the case management conference or participate effectively in the conference, the Court may impose sanctions (including dismissal of the case, striking of the answer, and payment of money).

Date: 04/05/2021

Maria Rhinehart, Court Executive Officer

By: 
Deputy Clerk