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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SACRAMENTO**

14 EDWARD ALCANTAR, as an individual
15 and on behalf of all others similarly situated,

16 Plaintiffs,

17 vs.

18 AEROJET ROCKETDYNE, INC., an Ohio
19 corporation; and DOES 1 through 50,
20 inclusive,

21 Defendants.

Case No.: 31-2020-00281224

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

- (1) VIOLATION OF LABOR CODE
§ 226(a);
(2) VIOLATION OF CAL. LABOR
CODE § 2698, *ET SEQ.*

DEMAND OVER \$25,000.00

FILED
Superior Court Of California,
Sacramento
07/12/2021
rsanmiguel
By _____, Deputy
Case Number:
34-2020-00281224

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24 **BY FAX**
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1 Plaintiff Edward Alcantar ("Plaintiff") hereby submits this First Amended Class and
2 Representative Action Complaint ("Complaint") against Defendant Aerojet Rocketdyne, Inc.
3 ("Defendant") and Does 1 through 50 (collectively, "Defendants") on behalf of himself and all
4 other similarly situated current and former employees of Defendants, for penalties and/or
5 damages for failure to provide complete and accurate itemized wage statements in violation of
6 the California Labor Code as follows:

7 **INTRODUCTION**

8 1. This class and representative action is within the Court's jurisdiction under
9 California Labor Code §§ 226 and 2698, *et seq.*

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide complete and accurate itemized
15 wage statements to Plaintiff and Class Members.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 have engaged in, among other things a system of willful violations of the California Labor Code
18 by creating and maintaining policies, practices, and customs that knowingly deny its employees
19 the above stated rights and benefits.

20 5. The policies, practices and customs of defendants described above and below
21 have resulted in unjust enrichment of Defendants and an unfair business advantage over
22 businesses that routinely adhere to the strictures of the California Labor Code.

23 **JURISDICTION AND VENUE**

24 6. The Court has jurisdiction over the violations of California Labor Code §§ 226
25 and 2698, *et seq.*

26 7. Venue is proper because Defendants are headquartered in Sacramento County.

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1 **PARTIES**

2 8. Plaintiff is employed by Defendants as a CNC Machinist. Plaintiff began
3 working for Defendants on or about January 2017, and was an hourly, non-exempt employee.

4 9. Plaintiff was and is the victim of the policies, practices, and customs of
5 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
6 by California Labor Code §§ 226 and 2698, *et seq.*

7 10. Plaintiff is informed and believes, and based thereon alleges, that Aerojet
8 Rocketdyne, Inc. was and is an Ohio corporation. Plaintiff is informed and believes, and based
9 thereon alleges, that Defendant operates and maintains business locations and facilities across the
10 State of California, including facilities in Sacramento, California.

11 11. Plaintiff is informed and believes and thereon alleges that at all times herein
12 mentioned Defendant and Does 1 through 50, are and were corporations, business entities,
13 individuals, and partnerships, licensed to do business and actually doing business in the State of
14 California. As such, and based upon all the facts and circumstances incident to Defendants'
15 business, Defendants are subject to California Labor Code §§ 226 and 2698, *et seq.*

16 12. Plaintiff does not know the true names or capacities, whether individual, partner
17 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
18 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
19 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
20 based thereon alleges that each of said fictitious defendants were responsible in some way for the
21 matters alleged herein and proximately caused Plaintiff and members of the general public and
22 class to be subject to the illegal employment practices, wrongs, and injuries complained of
23 herein.

24 13. At all times herein mentioned, each of said Defendants participated in the doing
25 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
26 Defendants, and each of them, were the agents, servants and employees of each of the other
27 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
28 acting within the course and scope of said agency and employment.

1 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
2 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
3 joint venturer of, or working in concert with each of the other co-Defendants and was acting
4 within the course and scope of such agency, employment, joint venture, or concerted activity.
5 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
6 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
7 Defendants.

8 15. At all times herein mentioned, Defendants, and each of them, were members of,
9 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
10 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

11 16. At all times herein mentioned, the acts and omissions of various Defendants, and
12 each of them, concurred and contributed to the various acts and omissions of each and all of the
13 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
14 herein mentioned, Defendants, and each of them, ratified each and every act or omission
15 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
16 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
17 damages as herein alleged.

18 CLASS ACTION ALLEGATIONS

19 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
20 California Code of Civil Procedure § 382. Plaintiff proposes the following Class: all current and
21 former non-exempt employees employed by Defendant in California who received shift
22 differential wages and/or any form of additive pay from April 6, 2019 through September 10,
23 2020 (the "Class").

24 18. Plaintiff further reserves the right to amend such Class definition based upon
25 further discovery.

26 19. **Numerosity and Ascertainability:** The members of the Class are so numerous
27 that joinder of all members would be impractical, if not impossible. The identities of the
28 members of the Class are readily ascertainable by review of Defendants' records, including

1 payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to provide accurate itemized wage statements to its employees that identified the
3 applicable rates of pay and number of hours worked for shift differential wages and/or any form
4 of additive pay whenever such wages were paid, in violation of Labor Code § 226(a) and
5 applicable wage orders.

6 20. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
7 necessary steps to represent fairly and adequately the interests of the Class defined above.
8 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Class and
9 the individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class
10 actions in the past and currently have a number of wage-and-hour class actions pending in
11 California state and federal courts.

12 21. Defendants uniformly administered a corporate policy and practice of failing to
13 provide accurate itemized wage statements to Plaintiff and the Class that identified the applicable
14 rates of pay and number of hours worked for shift differential wages and/or any form of additive
15 pay, in violation of Labor Code § 226(a) and applicable wage orders.

16 22. Plaintiff is informed and believes, and based thereon alleges, that this corporate
17 conduct is accomplished with the advance knowledge and designed intent to willfully and
18 intentionally fail to accurately record proper rates of pay and number of hours worked.

19 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
20 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
21 Labor Code § 226(a).

22 24. **Common Question of Law and Fact:** There are predominant common questions
23 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
24 concerning Defendants' policy and practice of failing to provide accurate itemized wage
25 statements to Plaintiff and the Class that identified the applicable rates of pay and number of
26 hours worked for shift differential wages and/or any form of additive pay, in violation of Labor
27 Code § 226(a) and applicable wage orders.

28 25. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the

1 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
2 as the Class Members. As with other California employees, Plaintiff was paid on an hourly
3 basis. Whenever shift differential wages and/or any form of additive pay were paid, however,
4 the wage statements provided to Plaintiff simply identified the gross wages paid. No hourly rates
5 of pay and hours were listed, in violation of Labor Code § 226(a)(9) and applicable wage orders.
6 Therefore, Plaintiff is a member of the Class and has suffered the alleged violations of California
7 Labor Code § 226(a) and applicable wage orders.

8 26. The California Labor Code upon which Plaintiff bases these claims are broadly
9 remedial in nature. These laws and labor standards serve an important public interest in
10 establishing minimum working conditions and standards in California. These laws and labor
11 standards protect the average working employee from exploitation by employers who may seek
12 to take advantage of superior economic and bargaining power in setting onerous terms and
13 conditions of employment.

14 27. The nature of this action and the format of laws available to Plaintiff and
15 members of the Class identified herein make the class action format a particularly efficient and
16 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
17 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
18 advantage since it would be able to exploit and overwhelm the limited resources of each
19 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
20 Member to pursue an individual remedy would also discourage the assertion of lawful claims
21 by employees who would be disinclined to file an action against their former and/or current
22 employer for real and justifiable fear of retaliation and permanent damage to their careers at
23 subsequent employment.

24 28. The prosecution of separate actions by the individual Class Members, even if
25 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
26 to individual Class Members against the Defendants and which would establish potentially
27 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
28 individual Class Members which would, as a practical matter, be dispositive of the interest of the

1 direct violation of Labor Code § 226(a)(9) and applicable wage orders.

2 34. Such a pattern, practice and uniform administration of corporate policy as
3 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class
4 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
5 including interest thereon, attorneys' fees, and costs of suit according to the mandate of
6 California Labor Code § 226.

7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

9 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

10 35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
11 though fully set forth herein.

12 36. Plaintiff brings this cause of action as a proxy for the State of California and in
13 this capacity, seeks penalties on behalf of all Aggrieved Employees from June 16, 2019, through
14 the present, for Defendants' violation of Labor Code § 226(a) as alleged above. Specifically,
15 Defendants violated Labor Code § 226(a) and applicable wage orders by failing to provide
16 accurate itemized wage statements to Plaintiff and other Aggrieved Employees that identified the
17 applicable hourly rates of pay and number of hours worked whenever shift differential wages
18 and/or any form of additive pay were paid.

19 37. Plaintiff is an "aggrieved employee" pursuant to Labor Code § 2699, as Plaintiff
20 has suffered the violations of Labor Code § 226(a) alleged above.

21 38. On or about June 16, 2020, Plaintiff sent written notice to the California Labor &
22 Workforce Development Agency ("LWDA") of Defendants' violation of Labor Code § 226(a),
23 pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). As of the
24 date of the filing of this Complaint, the LWDA has not responded to Plaintiff's written notice nor
25 indicated whether it intends to investigate the Labor Code violations provided for in the written
26 notice. Pursuant to Labor Code § 2699.3, Plaintiff also sent written notice of Defendants'
27 violations of the Labor Code to Defendants via certified mail.

28 39. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all

1 applicable civil penalties for Defendants' violations of Labor Code § 226(a) for the time period
2 described above, on behalf of himself and other Aggrieved Employees.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf
5 this suit is brought against Defendants, jointly and severally, as follows:

- 6 1. For an order certifying the proposed Class;
 - 7 2. For an order appointing Plaintiff as the representative of the Class;
 - 8 3. For an order appointing Counsel for Plaintiff as Class Counsel;
 - 9 4. Upon the First Cause of Action, for penalties and/or damages pursuant to
10 California Labor Code § 226, *et seq.*, and for interest, costs and attorneys' fees;
 - 11 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant
12 to the PAGA, Labor Code § 2698, *et seq.*, Labor Code § 226.3, and for costs and attorneys' fees;
 - 13 6. On all causes of action for attorneys' fees and costs as provided by California
14 Labor Code §§ 226, and 2699, and Code of Civil Procedure § 1021.5; and
 - 15 7. For such other and further relief that the Court may deem just and proper.
- 16

17 DATED: May 13, 2021

DIVERSITY LAW GROUP, P.C.

18
19 By: 

Larry W. Lee

Max W. Gavron

Attorneys for Plaintiff, the Class, and Aggrieved
Employees

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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On July 12, 2021, I served the following document(s) described as: **FIRST**
11 **AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested
12 parties in this action as follows:

13 Barbara Antonucci
14 bantonucci@constangy.com
15 Sarah K. Hamilton
16 shamilton@constangy.com
17 Constangy, Brooks, Smith & Prophete, LLP
18 601 Montgomery Street, Suite 350
19 San Francisco, California 94111
20 *Attorney for Defendant Aerojet Rocketdyne, Inc.*

21 X BY ELECTRONIC MAIL: by personally sending a true and correct copy
22 of the above-described document(s) to the party(ies) listed above or on the attached mailing list
23 from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s)
24 indicated above or on the attached mailing list. I certify that said electronic transmission was
25 completed and that all pages were received by the party(ies) identified herein or on the attached
26 mailing list.

27 I declare under penalty of perjury under the laws of the State of California that the
28 above is true and correct. Executed on July 12, 2021, at Los Angeles, California.

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