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County of Santa Barbara
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Attorneys for Plaintiff, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

DAVID ANDRADE, as an individual and
on behalf of all others similarly situated, and
as a private attorney general,

Plaintiffs,

vs.

GENERAL DYNAMICS MISSION
SYSTEMS, INC., a Delaware corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 20CV03134

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

**(1) VIOLATION OF LAB. CODE § 226(a);
(2) VIOLATION OF LAB. CODE §§ 2698 *ET
SEQ.***

DEMAND OVER \$25,000.00

On behalf of himself and other similarly situated current and former employees of Defendants, and as a proxy for the State of California, Plaintiff, David Andrade, submits this Class and Representative Action Complaint against Defendant, General Dynamics Mission Systems, Inc., and Does 1 through 50 (collectively, “Defendants”).

INTRODUCTION

1. This class and representative action challenges systemic illegal employment practices resulting in violations of the California Labor Code against individuals who worked for Defendants. The Complaint seeks penalties and other relief for Defendants’ violations of Labor Code section 226(a).¹

2. Plaintiff is informed and believes that Defendants have jointly and severally acted intentionally and with deliberate indifference and conscious disregard to the rights of employees by failing to provide complete and accurate itemized wage statements. First, whenever overtime wages are paid, Defendants issue wage statements that do not itemize and show the applicable overtime rate of pay. Rather, the wage statements show a base rate of pay only. Second, whenever “OT Recast” wages are paid, Defendants issue wage statements that do not itemize and show either the applicable rate or applicable hours used to calculate such wages. Again, the wage statements show a base rate of pay only. Third, Defendants issue wage statements that do not itemize and show the name of the legal entity that is the employer. Instead, “GD Mission Systems, Inc” is shown on wage statements. Defendants thus violate Section 226(a).

3. Plaintiff is informed and believes that Defendants have engaged in, among other things, a system of willful violations of the Labor Code by creating and maintaining policies, practices, and customs that knowingly deny its employees the above stated rights and benefits.

JURISDICTION AND VENUE

4. The Complaint seeks more than \$25,000.00 in relief. The Court has jurisdiction of Defendants’ violations of Section 226(a).

¹ Except as otherwise noted, all “Section” references are to the Labor Code.

5. Venue is proper in the County of Santa Barbara. Plaintiff works for Defendants in Santa Maria, California.

PARTIES

6. Plaintiff has worked for Defendants for approximately 20 years and is employed as a field systems engineer. At all times material hereto, Plaintiff has been provided wage statements that fail to itemize and show all applicable hourly rates in effect during the pay period, the corresponding number of hours worked at each hourly rate, and the name of the legal entity that is the employer. Plaintiff is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived him of the rights guaranteed by the Labor Code.

7. Plaintiff is informed and believes that Defendant, General Dynamics Mission Systems, Inc., was and is a Delaware corporation. Plaintiff is informed and believes that at all times herein mentioned named defendants and Does 1 through 50, are and were corporations, business entities, individuals, or partnerships that are and were licensed to do business and actually doing business in the State of California. Based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to Section 226(a).

8. Plaintiff does not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

9. At all times herein mentioned, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

10. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert

1 with, each of the other Defendants and was acting within the course and scope of such agency,
2 employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions
3 were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified
4 said acts, conduct, or omissions of the acting Defendants.

5 11. Plaintiff is informed and believes that at all times material hereto each of the
6 Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in
7 proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within
8 the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

9 CLASS ACTION ALLEGATIONS

10 12. **Definition:** Pursuant to Code of Civil Procedure section 382. Plaintiff seeks class
11 certification of all current and former employees of Defendants in the State of California since
12 April 6, 2019 (the “Class”). Plaintiff also seeks class certification of subclasses of (i) all current
13 and former employees of Defendants in the State of California who were paid overtime since
14 April 6, 2019 (the “Overtime Subclass”), and (ii) all current and former employees of Defendants
15 in the State of California who were paid “OT Recast” wages since April 6, 2019 (the “OT Recast
16 Subclass”).

17 13. **Numerosity and Ascertainability:** The members of the Class are so numerous
18 that joinder of all members would be impractical, if not impossible. The identities of the
19 members of the Class are readily ascertainable by review of Defendants’ records, including
20 payroll records. Defendants violated Section 226(a) by failing to provide complete and accurate
21 itemized wage statements to Plaintiff and other employees.

22 14. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
23 steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s
24 attorneys are ready, willing, and able to fully and adequately represent Plaintiff and the Class.
25 Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and
26 continue to litigate numerous wage-and-hour class actions currently pending in California state
27 and federal courts.
28

1 15. **Common Question of Law and Fact:** There are predominant common questions
2 of law and fact and a community of interest amongst the claims of Plaintiff and of the Class.
3 Plaintiff is informed and believes that Defendants uniformly administer a corporate policy and
4 practice of failing to provide complete and accurate itemized wage statements that show all
5 applicable hourly rates in effect during the pay period, the corresponding number of hours
6 worked at each hourly rate. Instead, only a base rate of pay and “GD Mission Systems, Inc” are
7 shown on wage statements, in violation of Section 226(a).

8 16. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
9 Class in that Plaintiff suffered the alleged harms in a similar and typical manner as other
10 members of the Class suffered. As with other members of the Class, Plaintiff was provided wage
11 statements that itemize and show all applicable hourly rates in effect during the pay period, the
12 corresponding number of hours worked at each hourly rate, and the name of the legal entity that
13 is the employer. Plaintiff thus is a member of the Class and has suffered the alleged violations of
14 the Labor Code.

15 17. The Labor Code is broadly remedial in nature. Its laws serve an important public
16 interest in establishing minimum working conditions and requirements in California. These labor
17 standards protect employees from onerous terms and conditions of employment or exploitation
18 by employers who have superior economic and bargaining power.

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

1 19. The prosecution of separate actions by individual members of the Class, even if
2 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
3 to individual members of the Class that would establish potentially incompatible standards of
4 conduct for Defendants, or (b) adjudications with respect to individual members of the Class that
5 would, as a practical matter, be dispositive of, or substantially impair or impede the ability to
6 protect, the interests of other members of the Class not parties to the adjudications. Further, the
7 claims of the individual members of the Class are not sufficiently large to warrant vigorous
8 individual prosecution considering the concomitant costs and expenses.

9 20. Defendants' pattern, practice, and uniform administration of corporate policy in
10 violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern
11 will establish the rights of Plaintiff and the Class to recover applicable penalties, reasonable
12 attorneys' fees, and costs of suit, pursuant to Section 226 and Code of Civil Procedure section
13 1021.5.

14 **FIRST CAUSE OF ACTION**

15 **Violation of Labor Code § 226(a)**

16 **(By Plaintiff, the Class, and Overtime and OT Recast Subclasses Against All Defendants)**

17 21. The preceding paragraphs are re-alleged and incorporated by this reference.

18 22. Section 226(a) requires employers to provide itemized wage statements to its
19 employees that show accurate information, including without limitation, all applicable hourly
20 rates in effect during the pay period, the corresponding number of hours worked at each hourly
21 rate, and the name of the legal entity that is the employer.

22 23. Defendants fail to provide complete and accurate itemized wage statements to
23 Plaintiff and the Class in violation of Section 226(a). First, whenever overtime wages are paid,
24 Defendants issue wage statements that do not itemize and show the applicable overtime rate of
25 pay. Rather, the wage statements show a base rate of pay only. Second, whenever "OT Recast"
26 wages are paid, Defendants issue wage statements that do not itemize and show either the
27 applicable rate or applicable hours used to calculate such wages. Again, the wage statements
28 show a base rate of pay only. Third, Defendants issue wage statements that do not itemize and

1 show the name of the legal entity that is the employer. Instead, “GD Mission Systems, Inc” is
2 shown on wage statements. Defendants thus violate Section 226(a).

3 24. Such a pattern, practice, and uniform administration of corporate policy is
4 unlawful and entitles Plaintiff and the Class to recover applicable penalties pursuant to Section
5 226, attorneys’ fees, and costs of suit.

6 **SECOND CAUSE OF ACTION**

7 **Violation of Labor Code §§ 2698 *Et Seq.***

8 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

9 25. The preceding paragraphs are re-alleged and incorporated by this reference.

10 26. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code
11 §§ 2698 *et seq.* (“PAGA”), Plaintiff brings this cause of action as a proxy for the State of
12 California. In this capacity, Plaintiff seeks penalties for Defendants’ violations of Section 226(a)
13 committed since April 6, 2019, against all aggrieved employees. Under Section 2699(c), Plaintiff
14 is an “aggrieved employee,” as one or more of the alleged violations was committed against
15 Plaintiff as an employee of Defendants.

16 27. Defendants violate Section 226(a) by failing to provide complete and accurate
17 itemized wage statements to Plaintiff and other aggrieved employees. As alleged herein,
18 Defendants fail to provide complete and accurate itemized wage statements that show all
19 applicable hourly rates in effect during the pay period, the corresponding number of hours
20 worked at each hourly rate, and the name of the legal entity that is the employer.

21 28. Since about September 16, 2020, Plaintiff has sent written notices to the Labor &
22 Workforce Development Agency (“LWDA”) of specific facts and theories for Defendants’
23 violations of Section 226(a). Plaintiff simultaneously has sent written notice to Defendants via
24 certified mail. As of the date of the filing of this Complaint, the LWDA has neither responded
25 nor indicated that it intends to investigate the allegations in Plaintiff’s written notices.

26 29. As such, pursuant to Section 2699(a) and (f), Plaintiff seeks recovery of all
27 applicable civil penalties for Defendants’ violations of Sections 226(a) against all aggrieved
28 employees for the period described above.

1 **PRAYER FOR RELIEF**

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

- 4 1. For an order certifying the proposed Class;
- 5 2. For an order appointing Plaintiff as the representative of the Class;
- 6 3. For an order appointing Counsel for Plaintiff as Class Counsel;
- 7 4. Upon the First Cause of Action for penalties pursuant to Section 226, and for
8 costs and attorneys' fees;
- 9 5. Upon the Second Cause of Action for penalties according to proof pursuant to
10 Sections 226.3 and 2698 *et seq.*, and for costs and attorneys' fees;
- 11 6. Upon each cause of action for attorneys' fees and costs as provided by Sections
12 226 and 2699, and Code of Civil Procedure section 1021.5; and
- 13 7. For such other and further relief that the Court may deem just and proper.

14 DATED: September 28, 2020

DIVERSITY LAW GROUP, P.C.

15 By: 

16 Larry W. Lee
17 Simon L. Yang
Attorneys for Plaintiff

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