

1 Kane Moon (SBN 249834)
2 Allen Feghali (SBN 301080)
3 Enzo Nabiev (SBN 332118)
4 **MOON & YANG, APC**
5 1055 W. Seventh St., Suite 1880
6 Los Angeles, California 90017
7 Telephone: (213) 232-3128
8 Facsimile: (213) 232-3125
9 E-mail: kane.moon@moonyanglaw.com
10 E-mail: allen.feghali@moonyanglaw.com
11 E-mail: enzo.nabiev@moonyanglaw.com

12 Attorneys for Plaintiff Alicia Smith

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ALICIA SMITH, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

AERO-ELECTRIC CONNECTOR, INC., a
California corporation; CONYSYS, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 20STCV34346

[Hon. Yvette M. Palazuelos, Dept. 9]

**FIRST AMENDED PAGA
REPRESENTATIVE ACTION
COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
Code § 2699, et seq.]

DEMAND FOR JURY TRIAL

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

DEC 17 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

TABLE OF CONTENTS

INTRODUCTION & PRELIMINARY STATEMENT 1

THE PARTIES 3

 A. Plaintiff..... 3

 B. Defendants..... 3

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION 5

FIRST CAUSE OF ACTION..... 8

PRAYER FOR RELIEF..... 10

DEMAND FOR JURY TRIAL..... 11

1 Plaintiff Alicia Smith (“Plaintiff”), based upon facts that either have evidentiary support
2 or are likely to have evidentiary support after a reasonable opportunity for further investigation
3 and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Aero-Electric Connector, Inc.,
6 Conesys, Inc., and Does 1 through 10 (Aero-Electric Connector, Inc., Conesys, Inc., and Does 1
7 through 10 are collectively referred to as “Defendants”) for civil penalties under the Private
8 Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.* (“PAGA”) stemming
9 from Defendants’ failure to pay minimum wages, failure to pay overtime wages, failure to
10 provide meal periods, failure to authorize and permit rest periods, failure to maintain accurate
11 records of hours worked and meal periods, failure to timely pay all wages to terminated
12 employees, failure to indemnify necessary business expenses, and failure to furnish accurate
13 wage statements.

14 2. For over 50 years, California’s courts and legislature have recognized that this
15 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
16 Wages are not ordinary debts. Because of the economic position of the average worker and his
17 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so
18 that employees are promptly paid the minimum/overtime wages that the Legislature has required
19 for employees. So fundamental are California’s wage-and-hour laws that the Legislature has
20 criminalized certain types of violations. In extending extra protection to deter violations of these
21 underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution or
22 other damages other than civil penalties—California has enacted the PAGA to permit an
23 individual to bring an action on behalf of herself and on behalf of others for PAGA penalties
24 only, which is the precise and sole nature of this action.

25 3. All California employees during the relevant statutes of limitations who are or
26 were harmed by Defendant’s illegal practices are “Aggrieved Employees.”

27 4. Plaintiff brings this action against Defendants seeking only to recover penalties for
28 herself, on behalf of all Aggrieved Employees that worked for Defendants, and on behalf of the

1 State of California. Plaintiff does not seek to recover anything other than penalties as permitted
2 by California Labor Code Section 2699 at this time. To the extent that statutory violations are
3 mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages
4 for those violations, but simply penalties as permitted by California Labor Code Section 2699,
5 declaratory relief, and injunctive relief for herself and all aggrieved employees as permitted by
6 the PAGA.

7 5. Defendants own/owned and operate/operated an industry, business, and
8 establishment within the State of California, including San Francisco County. As such, and
9 based upon all the facts and circumstances incident to Defendants' business in California,
10 Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial
11 Welfare Commission ("IWC"), and the California Business & Professions Code.

12 6. Despite these requirements, throughout the statutory period Defendants
13 maintained a systematic, company-wide policy and practice of:

- 14 (a) Failing to pay employees for all hours worked, including all minimum
15 wages, straight time wages, and overtime wages in compliance with the
16 California Labor Code and IWC Wage Orders;
- 17 (b) Failing to provide employees with timely and duty-free meal periods in
18 compliance with the California Labor Code and IWC Wage Orders, failing
19 to maintain accurate records of all meal periods taken or missed, and
20 failing to pay an additional hour's pay for each workday a meal period
21 violation occurred;
- 22 (c) Failing to authorize and permit employees to take timely and duty-free rest
23 periods in compliance with the California Labor Code and IWC Wage
24 Orders, and failing to pay an additional hour's pay for each workday a rest
25 period violation occurred;
- 26 (d) Failing to maintain accurate records of the hours employees worked;
- 27 (e) Failing to reimburse all necessary business expenses;
- 28

- 1 (f) Willfully failing to pay employees all meal period, rest period, minimum
2 wages, straight time wages, and overtime wages due within the time period
3 specified by California law when employment terminates; and
4 (g) Failing to provide employees with accurate, itemized wage statements
5 containing all the information required by the California Labor Code and
6 IWC Wage Orders.

7 7. On information and belief, Defendants, and each of them were on actual and
8 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
9 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
10 willful and deliberate

11 8. At all relevant times, Defendants were and are legally responsible for all of the
12 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
13 foregoing paragraphs as the employer of Plaintiff and the Aggrieved Employees. Further,
14 Defendants are responsible for each of the unlawful acts or omissions complained of herein under
15 the doctrine of "respondeat superior".

16 **THE PARTIES**

17 **A. Plaintiff**

18 9. Plaintiff Alicia Smith is a California resident that worked for Defendants in the
19 County of Los Angeles, State of California, as a machine shop employee from approximately
20 October 2019 to January 2020.

21 10. Plaintiff reserves the right to seek leave to amend this complaint to add new
22 plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
23 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

24 **B. Defendants**

25 11. Plaintiff is informed and believes, and based upon that information and belief
26 alleges, that Defendants Aero-Electric Connector, Inc. and Conesys, Inc. are:

- 27 (a) California corporations with their principal places of business in Los
28 Angeles, California.

- 1 (b) Business entities conducting business in numerous counties throughout the
2 State of California, including in Los Angeles County; and
- 3 (c) The former employer of Plaintiff, and the current and/or former employer
4 of the Aggrieved Employees. Aero-Electric Connector, Inc. and Conesys,
5 Inc. suffered and permitted Plaintiff and the Aggrieved Employees to work,
6 and/or controlled their wages, hours, or working conditions.

7 12. Plaintiff does not currently know the true names or capacities of the persons or
8 entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious
9 names. Each of the Doe Defendants was in some manner legally responsible for the damages
10 suffered by Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this
11 complaint to set forth the true names and capacities of these Defendants when they have been
12 ascertained, together with appropriate charging allegations, as may be necessary.

13 13. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
14 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
15 and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of
16 California.

17 14. Plaintiff is informed and believes and thereon alleges that at all relevant times
18 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
19 the other Aggrieved Employees, and exercised control over their wages, hours, and working
20 conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each
21 Defendant was the principal, agent, partner, joint venturer, officer, director, controlling
22 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
23 interest of some or all of the other Defendants, and was engaged with some or all of the other
24 Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
25 other Defendants so as to be liable for their conduct with respect to the matters alleged below.
26 Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and
27 within the scope of the relationships alleged above, that each Defendant knew or should have
28 known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the

1 conduct of all other Defendants.

2 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

3 15. Plaintiff Alicia Smith is a California resident who worked for Defendants in the
4 County of Los Angeles, State of California, as a machine shop employee from approximately
5 October 2019 to January 2020. During the statutory period, Defendants classified Plaintiff as
6 non-exempt from California's overtime requirements, and paid Plaintiff an hourly wage. During
7 the statutory period, Plaintiff typically worked 5 days each workweek, and in excess of 8 hours
8 each workday.

9 16. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
10 worked (including minimum wages and overtime wages), failed to provide Plaintiff with
11 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest
12 periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all
13 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
14 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
15 Defendants was typical and illustrative.

16 17. Throughout the statutory period, Defendants also required Plaintiff and the
17 Aggrieved Employees to work "off-the-clock", uncompensated. For example, Plaintiff and the
18 Aggrieved Employees were regularly required to wait in line in order to clock into work each
19 workday, uncompensated. Also, Plaintiff and the Aggrieved Employees were not paid for all
20 overtime performed. Specifically, Plaintiff and the Aggrieved Employees typically worked
21 substantial overtime hours but were not paid for all those hours. In failing to pay for all hours
22 worked, Defendants also failed to maintain accurate records of the hours Plaintiff and the
23 Aggrieved Employees worked.

24 18. Throughout the statutory period, Defendants have wrongfully failed to provide
25 Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants
26 sometimes, but not always, required Plaintiff and the Aggrieved Employees to work in excess of
27 five consecutive hours a day without providing 30-minute, continuous and uninterrupted, duty-
28 free meal period for every five hours of work, or without compensating Plaintiff and the

1 Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of
2 work or tenth hour of work. Defendants also did not adequately inform Plaintiff and the
3 Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or,
4 for shifts greater than 10 hours, by the end of the tenth hour of work. Accordingly, Defendants'
5 policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in
6 compliance with California law.

7 19. Throughout the statutory period, Defendants have wrongfully failed to authorize
8 and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
9 Defendants sometimes, but not always, required Plaintiff and the Aggrieved Employees to work
10 in excess of four consecutive hours a day without Defendants authorizing and permitting them to
11 take a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or
12 major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees
13 for rest periods that were not authorized or permitted. Defendants also did not adequately inform
14 Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendants
15 did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and
16 the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the
17 timing of rest periods. Defendants also did not have adequate policies or practices to verify
18 whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further,
19 Defendants did not maintain accurate records of employee work periods, and therefore
20 Defendants cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods
21 during the middle of each work period. Accordingly, Defendants' policy and practice was to not
22 authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance
23 with California law.

24 20. Throughout the statutory period, Defendants wrongfully required Plaintiff and the
25 Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for
26 Defendants without reimbursement. For example, Plaintiff and the Aggrieved Employees were
27 required to purchase their own safety glasses/goggles without reimbursement. Plaintiff and the
28 Aggrieved Employees incurred these substantial expenses as a direct result of performing their

1 job duties for Defendants, and Defendants have failed to indemnify Plaintiff and the Aggrieved
2 Employees for these employment-related expenses.

3 21. Throughout the statutory period, Defendants willfully failed and refused to timely
4 pay Plaintiff and the Aggrieved Employees at the conclusion of their employment all wages for
5 all minimum wages, overtime wages, meal period premium wages, and rest period premium
6 wages.

7 22. Throughout the statutory period, Defendants failed to furnish Plaintiff and the
8 Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly
9 rates, and all gross and net wages earned (including correct hours worked, correct wages earned
10 for hours worked, correct overtime hours worked, correct wages for meal periods that were not
11 provided in accordance with California law, correct wages for rest periods that were not
12 authorized and permitted to take in accordance with California law, and Defendant's address).
13 As a result of these violations of California Labor Code § 226(a), the Plaintiff and the Aggrieved
14 Employees suffered injury because, among other things:

- 15 (a) the violations led them to believe that they were not entitled to be paid
16 minimum wages, overtime wages, meal period premium wages, and rest
17 period premium wages to which they were entitled, even though they were
18 entitled;
- 19 (b) the violations led them to believe that they had been paid the minimum,
20 overtime, meal period premium, and rest period premium wages, even
21 though they had not been;
- 22 (c) the violations led them to believe they were not entitled to be paid
23 minimum, overtime, meal period premium, and rest period premium wages
24 at the correct California rate even though they were;
- 25 (d) the violations led them to believe they had been paid minimum, overtime,
26 meal period premium, and rest period premium wages at the correct
27 California rate even though they had not been;
- 28

- 1 (e) the violations hindered them from determining the amounts of minimum,
2 overtime, meal period premium, and rest period premium owed to them;
3 (f) in connection with their employment before and during this action, and in
4 connection with prosecuting this action, the violations caused them to have
5 to perform mathematical computations to determine the amounts of wages
6 owed to them, computations they would not have to make if the wage
7 statements contained the required accurate information;
8 (g) by understating the wages truly due them, the violations caused them to
9 lose entitlement and/or accrual of the full amount of Social Security,
10 disability, unemployment, and other governmental benefits;
11 (h) the wage statements inaccurately understated the wages, hours, and wages
12 rates to which Plaintiff and the Aggrieved Employees were entitled, and
13 Plaintiff and the Aggrieved Employees were paid less than the wages and
14 wage rates to which they were entitled.

15 Thus, Plaintiff and the Aggrieved Employees are owed the amounts provided for in California
16 Labor Code § 226(e), including actual damages.

17 **FIRST CAUSE OF ACTION**

18 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**
19 **2004, Cal. Lab. Code § 2698 et seq.)**

20 23. Plaintiff incorporates by reference and re-alleges all preceding paragraphs as
21 though fully set forth herein.

22 24. At all times herein mentioned, Defendants were subject to the Labor Code of the
23 State of California and the applicable Industrial Welfare Commission Orders.

24 25. California Labor Code § 2699(a) specifically provides for a private right of action
25 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
26 law, any provision of this code that provides for a civil penalty to be assessed and collected by
27 the Labor and Workforce Development Agency or any of its departments, divisions,
28 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,

1 be recovered through a civil action brought by an aggrieved employee on behalf of herself or
2 herself and other current or former employees pursuant to the procedures specified in Section
3 2699.3.”

4 26. Plaintiff has exhausted her administrative remedies pursuant to California Labor
5 Code § 2699.3. On September 1, 2020, she gave written notice by online filing to the Labor and
6 Workforce Development Agency and by certified mail to Defendants of the specific provisions
7 of the Labor Code that Defendants have violated against Plaintiff and current and former
8 aggrieved employees, including the facts and theories to support the violations. Plaintiff also
9 paid the filing fee shortly after September 1, 2020. Plaintiff’s PAGA case number is LWDA-
10 CM-804747-20.

11 27. The statute of limitations is tolled while a plaintiff exhausts his/her administrative
12 remedies with California’s Labor and Workforce Development Agency (LWDA) prior to suit,
13 which is required by the statute. (*See* Cal. Lab. Code § 2699.3(d).)

14 28. More than 65 days has elapsed since Plaintiff provided notice, but the Labor and
15 Workforce Development Agency has not indicated that it intends to investigate Defendants’
16 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil
17 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
18 the Labor Code described in this Complaint. These penalties include, but are not limited to,
19 penalties under California Labor Code §§ 210, 226.3, 1197.1, and 2699(f)(2).

20 29. In addition, Plaintiff seeks penalties for Defendants’ violation of California Labor
21 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
22 employing labor who willfully fails to maintain accurate and complete records required by
23 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
24 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee
25 begins and ends each work period. Meal periods, and total hours worked daily shall also be
26 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
27 keep total hours worked in the payroll period and applicable rates of pay.
28

1 30. During the time period of employment for Plaintiff and the Aggrieved Employees,
2 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
3 maintain accurate records showing meal periods, and accurate records showing when employees
4 begin and end each work period. Defendants' failure to provide and maintain records required by
5 the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to
6 know, understand and question the accuracy and frequency of meal periods, and the accuracy of
7 their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved
8 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
9 unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved
10 Employees have suffered and continue to suffer, substantial losses related to the use and
11 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking
12 to compel Defendants to fully perform its obligation under state law, all to their respective
13 damage in amounts according to proof at trial. Because of Defendants' knowing failure to
14 comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved
15 Employees have also suffered an injury in that they were prevented from knowing,
16 understanding, and disputing the wage payments paid to them.

17 31. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
18 of civil penalties on behalf of herself, the State of California, and similarly Aggrieved Employees
19 of Defendants. The exact amount of the applicable penalties, in all, is in an amount to be shown
20 according to proof at trial. These penalties are in addition to all other remedies permitted by law.

21 32. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs
22 pursuant to Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action
23 shall be entitled to an award of reasonable attorney's fees and costs."

24 **PRAYER FOR RELIEF**

25 Plaintiff, on behalf of all similarly aggrieved employees, prays for relief and judgment
26 against Defendants, jointly and severally, as follows:

- 27 1. That the Court declare, adjudge and decree that Defendants violated the California
28 Labor Code by failing to pay wages for all hours worked (including minimum, straight time,

1 and overtime wages), failing to provide meal periods, failing to authorize and permit rest
2 periods, failing to furnish accurate wage statements, and failing to maintain accurate records
3 of all hours worked and meal periods;

4 2. An award of civil penalties on behalf of herself and all similarly aggrieved
5 employees pursuant to PAGA;

6 3. Pre-judgment and post-judgment interest at the maximum rate allowed;

7 4. Attorneys' fees and costs reasonably incurred;

8 5. Injunctive and declaratory relief to the extent allowed by PAGA; and

9 6. Such other and further relief that the Court deems proper.

10
11 Dated: December 16, 2020

Respectfully submitted,

MOON & YANG, APC

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14 By: _____

Kane Moon
Allen Feghali
Enzo Nabiev
Attorneys for Plaintiff

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18 **DEMAND FOR JURY TRIAL**

19 Plaintiff demands a trial by jury as to all causes of action triable by jury.

20
21 Dated: December 16, 2020

MOON & YANG, APC

22
23 By: _____

Kane Moon
Allen Feghali
Enzo Nabiev
Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 1055 West Seventh Street, Suite 1880,
7 Los Angeles, California 90017. On December 16, 2020, I served the foregoing document
8 described as:

9 **FIRST AMENDED PAGA REPRESENTATIVE ACTION COMPLAINT**

10 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
11 addressed as follows:

12 ROGER M. MANSUKHANI
13 rmansukhani@grsm.com
14 JILLIAN M. FAIRCHILD
15 jfairchild@grsm.com
16 SARAH FAN
17 sfan@grsm.com
18 GORDON REES SCULLY MANSUKHANI, LLP
19 633 West Fifth Street, 52nd Floor
20 Los Angeles, CA 90071

21 ***Attorneys for Defendants:***
22 ***Aero-Electric Connector, Inc., & Conesys Inc.***

23 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
24 envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s
25 practice of collection and processing correspondence for mailing. Under that practice it would be
26 deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los
27 Angeles, California in the ordinary course of business. I am aware that on motion of the party
28 served, service is presumed invalid if postal cancellation date or postage meter date is more than
one day after date of deposit for mailing in affidavit.

29 X (State) I declare under penalty of perjury under the laws of the State of
30 California that the above is true and correct.

31 Executed on December 16, 2020, at Los Angeles, California.

32 Ivette Hernandez
33 Name

34 /s/ Ivette Hernandez
35 Signature