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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 22 2021

BY 
ELYZABETH GOMEZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ALMA BARRIGA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

DUCOMMUN INCORPORATED, a Delaware
corporation; DUCOMMUN
AEROSTRUCTURES, INC., A Delaware
corporation; and DOES 1 through 100,

Defendants.

CINSB2028738
Case No. ~~CIVDS2028738~~

*[Assigned for all purposes to Judge David
Cohn in Dept. S-26]*

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

- (1) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 1194 and
1198);**
- (2) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 and 512);**
- (3) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 and 516);**
- (4) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*).**
- (7) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).**

1 Plaintiff Alma Barriga (“Plaintiff”) hereby brings this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendants Ducommun Incorporated, a
3 Delaware corporation; Ducommun Aerostructures, Inc.; and DOES 1 through 100, inclusive
4 (collectively, “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under Labor Code §§ 201-204, 226, 226.7,
8 510, 512, 516, 1194, 1198, and 2698 *et seq.*, and California Business & Professions Code § 17200
9 *et seq.*, and Industrial Welfare Commission Wage Order No. 1 (“Wage Order 1”), in addition to
10 seeking declaratory relief and restitution. This Complaint is brought pursuant to California Code
11 of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California
12 Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to California Code of Civil
15 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
16 occurred in San Bernardino County. Defendants own, maintain offices, transact business, have an
17 agent or agents within San Bernardino County, and/or otherwise are found within San Bernardino
18 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

19 **PARTIES**

20 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was and currently is, a California resident. Within the statute of limitations periods
22 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-
23 exempt employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
24 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
25 to her by Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 1194, 1198, and 2698 *et seq.*,
26 California Business & Professions Code § 17200 *et seq.*, and Wage Order 1, which sets
27 employment standards for the manufacturing industry.

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1 4. Plaintiff is informed and believes, and based thereon alleges, that during the time
2 period relevant to this action, Defendants did (and do) business by manufacturing and supplying
3 electronic and structural systems to the aerospace and defense industries.

4 5. Plaintiff is informed and believes, and based thereon alleges, that at all times
5 mentioned herein, Defendants were licensed to do business in California and were the employers
6 of Plaintiff and of the members of the Classes (as defined in Paragraph 16).

7 6. Plaintiff does not know the true names, capacities, relationships, and/or the extent
8 of participation of Defendants DOES 1 through 100, inclusive, in the conduct alleged in this
9 Complaint. For that reason, Defendants DOES 1 through 100, inclusive, are sued under such
10 fictitious names. Plaintiff prays for leave to further amend this Complaint when their true names
11 and capacities are known. Plaintiff is informed and believes, and based thereon alleges, that each
12 fictitiously named Defendant is and was responsible in some way for the alleged wage-and-hour
13 violations and other wrongful conduct that subjected Plaintiff and the Classes, as defined below,
14 to the illegal employment practices, wrongs and injuries complained of herein. All references in
15 this Complaint to “Defendants” shall be deemed to include all DOE Defendants.

16 7. At all times herein mentioned, each of said Defendants participated in the doing
17 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
18 Defendants, and each of them, were the agents, servants, and employees of each and every one of
19 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
20 were acting within the course and scope of said agency and employment. Defendants, and each
21 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
22 omissions complained of herein.

23 8. At all times mentioned herein, Defendants, and each of them, were members of
24 and engaged in a joint venture, partnership, and common enterprise, and acted within the course
25 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
26 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the
27 Classes (as defined in Paragraph 16).

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GENERAL FACTUAL ALLEGATIONS

9. Plaintiff was employed by Defendants as a non-exempt employee in the position of “Senior Scriber” from approximately August 2007 until June 29, 2020.

10. During Plaintiff’s employment with Defendants, Plaintiff worked over 8.0 hours per workday and/or over 40.0 hours per workweek but did not receive overtime compensation equal to one and one-half times her regular rate of pay for working overtime hours. Specifically, Defendants paid Plaintiff and other non-exempt employees non-discretionary incentive pay, including but not limited to payments denoted on their wage statements as “2nd Shift Premi,” “Bonus Payment - D,” “Taxable Gift Gr,” and/or other forms of pay that are not excludable from an employee’s “regular rate” of pay (hereinafter the aforementioned forms of pay are collectively referred to as “Incentive Pay”). However, Defendants failed to properly calculate Plaintiff’s and other non-exempt employees’ regular rates of pay as a result of their receipt of Incentive Pay, thereby miscalculating and underpaying the overtime wages owed to them.

11. Plaintiff and other non-exempt employees were not provided with all legally compliant meal periods, because Defendants’ meal period policies/practices failed to provide Plaintiff and other non-exempt employees with a duty-free, timely, and uninterrupted 30-minute meal period before the end of the fifth hour of work and/or a second 30-minute meal period for shifts of over 10.0 hours. Specifically, during Plaintiff’s employment with Defendants, Defendants impermissibly prevented Plaintiff and other non-exempt employees from taking a timely meal period before the fifth hour of work due to work demands as well as a lack of scheduling meal periods and providing appropriate coverage. Moreover, Defendants failed to provide Plaintiff and other non-exempt employees with a second meal period when they worked shifts in excess of 10.0 hours. On occasions where Plaintiff and other non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendants failed to compensate Plaintiff and other non-exempt employees with the required meal period premiums for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Additionally, upon information and belief, during at least a portion of the class period, Defendants maintained no payroll code or other mechanism for payment of meal

period premiums under Labor Code § 226.7 in the event a legally compliant meal period was not provided to their non-exempt employees.

12. Plaintiff and other non-exempt employees were also not authorized and permitted to take all legally compliant rest periods. Despite Defendants requiring Plaintiff and other non-exempt employees to work over ten hours, Defendants only permitted Plaintiff and other non-exempt employees to take one ten-minute rest period during the entirety of their shift. Despite failing to authorize and permit rest periods as required under California law, Defendants failed to pay Plaintiff and other non-exempt employees one hour of rest period premium for each day they experienced a rest period violation as required by Labor Code Section 226.7. Defendants also failed to maintain a mechanism for payment of rest period premium payments as required by Labor Code Section 226.7.

13. As a result of Defendants' failure to compensate Plaintiff and other non-exempt employees for all overtime wages, and meal and rest period premium wages earned, Defendants maintained inaccurate payroll records and issued inaccurate wage statements. Upon information and belief, Defendants also issued facially deficient wage statements that failed to include, among other things, the name and address of the legal entity that is the employer 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 Section 226(a).

14. Additionally, as a result of Defendants' failure to compensate Plaintiff and other non-exempt employees for all overtime wages, and meal and rest period premium wages earned, Defendants failed to timely pay Plaintiff and other former employees all wages owed upon separation from employment. Upon information and belief, Defendants further failed to timely pay Plaintiff all final wages owed as Defendants terminated Plaintiff on or around June 29, 2020 but failed to pay Plaintiff her final wages, including vacation wages, until August 7, 2020.

15. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein has been calculated to include 178 days proceeding the filing of this Complaint.

1 **CLASS ACTION ALLEGATIONS**

2 16. Class Definitions: Plaintiff brings this Complaint on behalf of herself and the
3 following Classes pursuant to Section 382 of the Code of Civil Procedure:

4 a. The Overtime Class consists of all of Defendants' current and former non-exempt
5 employees in California who worked more than 8.0 hours per day and/or 40.0
6 hours per week and (i) received Incentive Pay during a corresponding time period,
7 during the four years plus 178 days immediately preceding the filing of this action
8 through the present.

9 b. The Meal Period Class consists of all of Defendants' current and former non-
10 exempt employees in California who: (i) worked at least one shift in excess of 5.0
11 hours and/or (ii) worked at least one shift in excess of 10.0 hours, during the four
12 years plus 178 days immediately preceding the filing of this action through the
13 present.

14 c. The Rest Period Class consists of all of Defendants' current and former non-
15 exempt employees in California who worked at least one shift in excess of 3.5
16 hours, during the four years plus 178 days immediately preceding the filing of this
17 action through the present.

18 d. The Wage Statement Class consists of all members of the Overtime Class, Meal
19 Period Class, and/or Rest Period Class who have received a wage statement from
20 Defendants during the one year plus 178 days immediately preceding the filing of
21 this action through the present.

22 e. The Waiting Time Class consists of all formerly employed members of the
23 Overtime Class, Meal Period Class and/or Rest Period Class, who separated their
24 employment from Defendants during the three years and 178 days immediately
25 preceding the filing of this action through the present.

26 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
27 joinder of all members would be unfeasible and not practicable. The membership of the classes
28 and subclasses are unknown to Plaintiff, at this time; however, it is estimated that the Classes

number is in excess of 75 individuals as to each class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation, to:

- i. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, sections 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- ii. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;
- iii. Whether Defendants correctly paid meal period premium payments at the regular rate for non-compliant meal periods pursuant to Labor Code section 226.7;
- iv. Whether Defendants provided legally complaint rest periods to members of the Rest Period Class pursuant to Labor Code sections 226.7 and 516;
- v. Whether Defendants correctly paid rest period premium payments at the regular rate for non-compliant rest periods pursuant to Labor Code section 226.7;
- vi. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226; and
- vii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member including but not limited to Defendants' uniform policies and/or practices dealing with overtime payment, meal periods, rest

1 periods, wage statements, and/or the payment of final wages. As such, the common questions
2 predominate over individual questions concerning each individual class member's showing as to
3 his or her eligibility for recovery or as to the amount of his or her damages.

4 **20. Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
5 Plaintiff was employed by Defendants as a non-exempt employee in California during the statutes
6 of limitation applicable to each cause of action pled in this Complaint. As alleged herein, Plaintiff,
7 like the members of the Classes, was not properly paid overtime wages due to a miscalculation of
8 her regular rate of pay, was not provided all required meal periods, was not authorized and
9 permitted to take all required rest periods, did not receive meal and rest period premium wages
10 for missed and/or non-compliant meal and rest periods, was not issued accurate itemized wage
11 statements, and/or was not paid all final wages at the time of termination.

12 **21. Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
13 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
14 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
15 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
16 and-hour class actions in state and federal courts in the past and are committed to vigorously
17 prosecuting this action on behalf of the members of the Classes.

18 **22. Superiority:** The California Labor Code is broadly remedial in nature and serves
19 an important public interest in establishing minimum working conditions and standards in
20 California. These laws and labor standards protect the average working employee from
21 exploitation by employers who have the responsibility to follow the laws and who may seek to
22 take advantage of superior economic and bargaining power in setting onerous terms and
23 conditions of employment. The nature of this action and the format of laws available to Plaintiff
24 and members of the Classes make the class action format a particularly efficient and appropriate
25 procedure to redress the violations alleged herein. If each employee were required to file an
26 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
27 would be able to exploit and overwhelm the limited resources of each individual Class Member
28 with their vastly superior financial and legal resources. Moreover, requiring each member of the

1 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
2 employees who would be disinclined to file an action against their former and/or current employer
3 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
4 employment. Further, the prosecution of separate actions by the individual class members, even
5 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
6 with respect to the individual class members against Defendants herein; and which would
7 establish potentially incompatible standards of conduct for Defendants; and/or legal
8 determinations with respect to individual class members which would, as a practical matter, be
9 dispositive of the interest of the other class members not parties to adjudications or which would
10 substantially impair or impede the ability of the class members to protect their interests. Further,
11 the claims of the individual members of the class are not sufficiently large to warrant vigorous
12 individual prosecution considering all of the concomitant costs and expenses attending thereto.

13 23. As such, the Classes identified in Paragraph 16 are maintainable as a Class under
14 Section 382 of the Code of Civil Procedure.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PAY ALL OVERTIME WAGES**

17 **(AGAINST ALL DEFENDANTS)**

18 24. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 25. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and
20 1198, which provide that non-exempt employees are entitled to all overtime wages and
21 compensation for all overtime hours worked and provide a private right of action for the failure
22 to pay all overtime compensation for overtime work performed.

23 26. At all times relevant herein, Defendants were required to properly compensate
24 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime
25 hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3
26 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular
27 rate of pay” for work in excess of 8 hours per work day and/or in excess of 40 hours of work in
28 the workweek and “double the employee’s regular rate of pay” for all hours worked in excess of

1 12 hours in a workday or in excess of 8 hours on the seventh day of a workweek. Defendants
2 caused Plaintiff to work overtime hours, but did not compensate Plaintiff or members of the
3 Overtime Pay Class with one and one-half times their regular rate of pay for such hours.

4 27. The foregoing policies and practices are unlawful and create an entitlement to
5 recovery by Plaintiff and the Overtime Class Members in a civil action for the unpaid amount of
6 overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and
7 costs of suit according to California Labor Code §§ 204, 210, 216, 510, 1194, and 1198; and Code
8 of Civil Procedure § 1021.5.

9 **SECOND CAUSE OF ACTION**

10 **MEAL PERIOD VIOLATIONS**

11 **(AGAINST ALL DEFENDANTS)**

12 28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 failed in their affirmative obligation to provide all of their non-exempt employees in California,
15 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
16 in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite
17 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members
18 of the Meal Period Class at their respective regular rates of pay, in accordance with California
19 Labor Code §§ 204, 210, 226.7, and 512.

20 30. As a result, Defendants are responsible for paying premium compensation for meal
21 period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 1, including interest
22 thereon, statutory penalties, civil penalties, and costs of suit.

23 **THIRD CAUSE OF ACTION**

24 **REST PERIOD VIOLATIONS**

25 **(AGAINST ALL DEFENDANTS)**

26 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27 32. Wage Order 1, § 12 and Labor Code §§ 226.7 and 516 establish the right of
28 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour

1 period worked, or major fraction thereof.

2 33. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
3 of the Rest Period Class to take all required rest periods.

4 34. The foregoing violations create an entitlement to recovery by Plaintiff and
5 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
6 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
7 to Labor Code §§ 226.7, 516, and Civil Code §§ 3287(b) and 3289.

8 **FOURTH CAUSE OF ACTION**

9 **WAGE STATEMENT VIOLATIONS**

10 **(AGAINST ALL DEFENDANTS)**

11 35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

12 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
14 and members of the Wage Statement Class with complete and accurate wage statements that
15 included, among other requirements, all hours worked, total gross wages earned, all rates of pay
16 and corresponding number of hours worked (including for overtime pay), total net wages earned,
17 and the correct name of the legal entity that is the employer in violation of Labor Code § 226 *et*
18 *seq.*

19 37. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
20 with complete and accurate itemized wage statements resulted in actual injury, as said failures led
21 to, among other things, the non-payment of all overtime wages owed, and deprived them of the
22 information necessary to identify the discrepancies in Defendants' reported data.

23 38. Defendants' failures create an entitlement to recovery by Plaintiff and members of
24 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
25 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
26 costs of suit according to California Labor Code § 226 *et seq.*

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1 **FIFTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES**

3 **(AGAINST ALL DEFENDANTS)**

4 39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 40. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
6 an employer to pay all wages earned immediately at the time of separation of employment in the
7 event the employer discharges the employee, or if the employee provides at least 72 hours of
8 notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of
9 his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon
10 said employee's last date of employment.

11 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
13 at the time of their separation. Further, Plaintiff is informed and believes, and based thereon
14 alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay
15 members of the Waiting Time Class all earned wages at the end of employment in a timely manner
16 pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages
17 was willful within the meaning of Labor Code § 203.

18 42. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
19 Time Class all earned wages upon separation from employment results in a continued payment
20 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
21 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
22 plus reasonable attorneys' fees and costs of suit

23 **SIXTH CAUSE OF ACTION**

24 **UNFAIR COMPETITION**

25 **(AGAINST ALL DEFENDANTS)**

26 43. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27 44. Defendants have engaged and continue to engage in unfair and/or unlawful
28 business practices in California in violation of Business & Professions Code § 17200 *et seq.*, by:

(a) failing to pay Plaintiff and members of the Overtime Class all overtime wages; (b) failing to provide Plaintiff and members of the Meal Period Class with all meal periods to which they are entitled, and/or failing to pay them meal period premium payments; (c) failing to authorize and permit all required duty-free rest periods to Plaintiff and members of the Rest Period Class, and/or failing to pay them rest period premiums payments; (d) knowingly failing to furnish Plaintiff and the Wage Statement Class with all accurate and complete itemized wage statements in violation of Labor Code § 226; and/or (e) failing to pay all final wages owed to employees upon their separation from employment with Defendants.

45. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

46. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

47. The acts complained of herein occurred within the last four years and 178 days immediately preceding the filing of the Plaintiff's Complaint.

48. Plaintiff was compelled to retain the services of counsel to file this Complaint to protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which she is entitled to recover under Code of Civil Procedure § 1021.5.

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1 **SEVENTH CAUSE OF ACTION**

2 **PRIVATE ATTORNEY GENERAL ACT**

3 **(AGAINST ALL DEFENDANTS)**

4 49. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 50. Defendants have committed several Labor Code violations against Plaintiff,
6 members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee”
7 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved
8 employees, brings this representative action against Defendants to recover the civil penalties due
9 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
10 according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited
11 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for
12 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for
13 each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
14 each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per
15 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
16 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
17 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
18 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each
19 subsequent violation per employee per pay period for those violations of the Labor Code for
20 which no civil penalty is specifically provided, based on the following Labor Code violations:

21 a. Failing to compensate Plaintiff and other aggrieved employees all overtime wages
22 earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;

23 b. Failing to authorize and permit Plaintiff and other aggrieved employees their
24 statutorily mandated duty-free meal periods and failing to pay meal period premiums
25 in violation of Labor Code §§ 226.7, 512, and 1198;

26 c. Failing to authorize and permit Plaintiff and other aggrieved employees their
27 statutorily mandated rest periods and failing to pay rest period premiums in violation
28 of Labor Code §§ 226.7, 516, and 1198;

- d. Failing to furnish Plaintiff and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- e. Failing to compensate Plaintiff and other aggrieved employees with all earnings at their separation of employment in violation of Labor Code §§ 201-203;
- f. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice each calendar month in violation of Labor Code § 204; and
- g. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 558 and 1174.

51. On or around December 16, 2020 Plaintiff notified Defendants via certified mail and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to the violations of the California Labor Code identified in Paragraph 50 (a)-(g). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

52. Based on the foregoing, Plaintiff seeks to represent herself and all aggrieved employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California between the one year and 178 days prior to the submission of Plaintiff’s PAGA notice to the present.

53. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interest and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which she is entitled to recover under California Labor Code § 2699.

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1 **PRAYER**

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

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for compensatory, consequential, general and
8 special damages according to proof pursuant to Labor Code §§ 204, 510, 1194, and 1198;
- 9 5. Upon the Second Cause of Action, for compensatory, consequential, general and
10 special damages according to proof pursuant to Labor Code §§ 226.7 and 512;
- 11 6. Upon the Third Cause of Action, for compensatory, consequential, general and
12 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;
- 13 7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code
14 § 226 et. seq.;
- 15 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
16 Labor Code §§ 201-203;
- 17 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
18 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
19 practices declared by this Court to be in violation of Bus. & Prof. Code § 17200, *et seq.*;
- 20 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
21 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
22 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
23 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
24 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
25 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
26 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
27 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
28 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each

subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the violations of Labor Code sections identified in Paragraph 50 (a)-(g) above.

11. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 218.5, 226, and 1194 et seq., and Code of Civil Procedure § 1021.5; and

13. For such other and further relief the Court may deem just and proper.

Respectfully submitted,

Dated: February 22, 2021

HAINES LAW GROUP, APC

By:


Paul K. Haines
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Respectfully submitted,

Dated: February 22, 2021

HAINES LAW GROUP, APC

By:


Paul K. Haines
Attorneys for Plaintiff