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on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

YATONNA TAYLOR on behalf of herself and
all others similarly situated

Plaintiff,

vs.

GUILD MORTGAGE COMPANY, a
California Company, and DOES 1 through 50,
inclusive,

Defendants.

Case No.

ASSIGNED FOR ALL PURPOSES TO:

JUDGE:

DEPT:

CLASS ACTION COMPLAINT

- 1) Failure to pay Lawful Wages Owed;**
- 2) Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof;**
- 3) Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof;**
- 4) Failure to Timely Pay Wages;**
- 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; and**
- 6) Violations of the Unfair Competition Law**

JURY TRIAL DEMANDED

I.

INTRODUCTION

1. Plaintiff, YATONNA TAYLOR (hereinafter "Plaintiff"), on behalf of herself and all Non-Exempt Employees employed by GUILD MORTGAGE COMPANY in California

1 (hereinafter “Non-Exempt Employees” and/or “Class Members”), asserts the following Class
2 Action claim, pursuant to Code of Civil Procedure section 382, against Guild Mortgage Company,
3 and Does 1 through 50 (hereinafter collectively "Defendants" and/or “Guild Mortgage”).

4 2. During the liability period, defined as the applicable statute of limitations for each
5 and every cause of action contained herein, Defendants enforced shift schedules, employment
6 policies and practices, and/or workload requirements wherein Plaintiff and Non-Exempt
7 Employees were, amongst other statutory violations, not paid all lawful wages; not provided
8 compliant rest and meal periods; not provided accurate itemized wage statements; and not paid
9 timely wages at termination.

10 3. Plaintiff, on behalf of herself and Class Members, bring this action pursuant to
11 Labor Code sections 201-203, 204, 225, 226, 226.7, 510, 512, 558, 1194, 1197, 1198, Title 8,
12 Ssection 11050 and any other applicable Industrial Welfare Commission (“IWC”) Wage Orders,
13 seeking unpaid lawful wages, unpaid rest and meal period compensation, penalties and other
14 equitable relief, and reasonable attorneys’ fees and costs.

15 4. Plaintiff, on behalf of herself and all Class Members, pursuant to Business and
16 Professions Code sections 17200-17208, also seeks restitution from Defendants based on
17 Defendants’ violations of California Labor Code of Regulations, Title 8, section 11050 *et seq.*

18 II.

19 JURISDICTION AND VENUE

20 5. This Court has jurisdiction over this action pursuant to the California Constitution
21 Article VI §10, which grants the California Superior Court original jurisdiction in all causes
22 except those given by statute to other courts. The statutes here do not give jurisdiction to any
23 other court. The monetary damages and restitution sought by Plaintiffs exceed the minimum
24 jurisdiction limits of the California Superior Court and will be established according to proof at
25 trial. Venue is proper to each Defendant pursuant to Code of Civil Procedure section 395 because
26 they conduct substantial and continuous business activities in San Diego County and are within
27
28

1 the jurisdiction of this Court for service of process purposes. Defendants employ numerous Non-
2 Exempt Employees in San Diego and other Counties throughout California.

3
4 **III.**

5 **PARTIES**

6 6. Plaintiff is, and at all times mentioned in this complaint was, a resident of El Cajon,
7 California.

8 7. Upon information and belief, Defendants are mortgage lenders and advisers
9 headquartered in San Diego. Plaintiff believes Defendants are qualified to do business in
10 California and continue to do so.

11 8. The true names and capacities of Defendants, whether individual, corporate,
12 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
13 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
14 section 474. Plaintiff is informed and believes, and based thereon alleges that each of the
15 Defendants designated herein as a DOE is legally responsible in some manner for the unlawful
16 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
17 names and capacities of the Defendants designated hereinafter as DOES when such identities
18 become known.

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

23 **IV.**

24 **FACTUAL BACKGROUND**

25 10. Plaintiff was employed by Defendants from on or about February
26 1, 2013 until about March 9, 2020 and occupied the position of Claims Specialist at Defendants'
27 Kearny Mesa, California location.
28

1 11. During the liability period, Guild Mortgage failed to pay Plaintiff and Non-Exempt
2 Employees lawful wages for all hours worked. For instance, at least twice a month, Defendants
3 would hold mandatory meetings during Plaintiff and Class Members' scheduled meal periods. The
4 meal periods were deducted from pay and thus Plaintiff and Class Members were not paid for
5 working through these "lunch meetings."

6 12. During the liability period, Plaintiff and Non Exempt Employees clocked in at the
7 start of their shift on Defendants' computers. They were required to turn on the computer, and
8 open the application to log on to the system and clock in. This process could take several
9 minutes, estimated between five to seven minutes prior to clocking in at the start of their shift.
10 Plaintiff and Class Members were not compensated for the time it took for them to log onto the
11 clock in time prior to the start of their shift.. Defendants did not record these instances of work
12 performed "off the clock" by Plaintiff and Class Members.

13 13. During the liability period, due to the demands of work shifts, Plaintiff and Class
14 Members were required to work in excess of five (5) hours without being provided an
15 uninterrupted thirty (30) minute meal period by the end of the fifth hour and were not
16 compensated one (1) hour of pay at their regular rate of compensation for each workday that a
17 compliant meal period was not provided. On a regular basis, Plaintiff and Non-Exempt
18 Employees did not receive a thirty-minute meal break until the sixth hour of their shift. Also, as
19 discussed herein, Plaintiff and Class Members were often required to work through their meal
20 periods.

21 14. During the liability period, due to the workload requirements and time constraints
22 resulting from the demands of work shifts, Plaintiff and Non-Exempt Employees were not
23 permitted to take a lawful minimum ten (10) minute rest period for every four hours or major
24 fraction thereof worked. Plaintiff and Non-Exempt Employees were not compensated one (1) hour
25 of pay at his regular rate of compensation for each workday that rest periods were not provided, in
26 violation of California labor laws, regulations, and IWC Wage Orders.

27 15. Defendants failed to pay Non-Exempt Employees all earned wages in a timely
28

1 manner; nor have Defendants paid, upon or after termination, all compensation due, including but
2 not limited to all wages owed and compensation for having failed to properly provide rest periods
3 and meal periods.

4 16. Defendants have also failed to maintain accurate itemized records reflecting total
5 hours worked and have failed to provide Non-Exempt Employees with accurate itemized wage
6 statements reflecting total hours worked and appropriate rates of pay.

7 17. Upon information and belief, during the relevant period, Defendants employ over
8 fifty (50) employees in California in non-exempt hourly positions as Claims Specialists and/or
9 similar positions

10 18. Non-Exempt Employees employed by Defendants all times pertinent hereto, have
11 been non-exempt employees within the meaning of the California Labor Code, and the
12 implementing rules and regulations of the IWC California Wage Orders.

13
14 **V.**
15 **CLASS ACTION ALLEGATIONS**

16 19. Plaintiff seeks to represent a Class comprised of and defined as: All persons who
17 are employed or have been employed by Defendants in the state of California as hourly nonexempt
18 employees within four (4) years prior to the date this lawsuit is filed (“liability period”) until
19 resolution of this lawsuit (collectively referred to as the “Class” and/or Class Members”).

20 20. Plaintiff also seeks to represent Subclasses comprised of and defined as:

21 a. All Non-Exempt Employees employed by Defendants in California
22 within the liability period who were not accurately paid all lawful wages, including overtime,
23 for all hours worked;

24 b. All Non-Exempt Employees employed by Defendants in California
25 within the liability period who were not accurately paid all lawful wages, including minimum
26 wages, for all hours worked

27 c. All Non-Exempt Employees employed by Defendants in California who
28 were not provided a thirty (30) minute uninterrupted meal period by the end of the fifth hour

1 when they worked over five hours in a shift;

2 d. All Non-Exempt Employees employed by Defendants in California who
3 were not provided a second thirty (30) minute uninterrupted meal period by the end of the tenth
4 hour when they worked over ten hours in a shift;

5 e. All Non-Exempt Employees employed by Defendants in California who
6 were not provided a minimum ten (10) minute rest period for every four (4) hours, or major
7 fraction thereof, worked per day and not provided compensation in lieu thereof;

8 f. All Non-Exempt Employees employed by Defendants in California
9 within the liability period who were not timely paid all wages owed upon the termination of their
10 employment with Defendants; and

11 f. All Non-Exempt Employees employed by Defendants in California
12 within the liability period who were not provided with accurate and complete itemized wage
13 statements.

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

17 22. This action has been brought and may properly be maintained as a class action
18 under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined
19 community of interest in the litigation and the proposed Class is easily ascertainable.

20 **A. Numerosity**

21 23. The potential members of the Class as defined are so numerous that joinder of all
22 the members of the Class is impracticable. While the precise number of Non-Exempt Employees
23 has not been determined at this time, Plaintiff is informed and believes that Defendants currently
24 employ, and/or during the relevant time period employed, approximately over 50 Non-Exempt
25 Employees in California who are or have been affected by Defendants' unlawful practices as
26 alleged herein.

27
28 **B. Commonality**

1 24. There are questions of law and fact common to the Class predominating over
2 any questions affecting only individual Class Members. These common questions of law and
3 fact include, without limitation:

- 4 i. Whether Defendants violated Labor Code sections 510, 1194 and applicable IWC
5 Wage Orders by failing to pay all earned wages, including overtime, to Non-Exempt
6 Employees who worked “off the clock” and in excess of eight (8) hours in a work day
7 and/or more than forty (40) hours in a workweek;
- 8 ii. Whether Defendants violated Labor Codes sections 200, 1194, and 1197 and
9 applicable IWC Wage Orders for failing to pay all lawful wages owed to Non-Exempt
10 Employees for time spent under Defendants’ control and working "off-the-clock;"
- 11 iii. Whether Defendants violated sections 226.7, 512 of the Labor Code and
12 applicable IWC Wage Order by failing to provide the statutorily thirty (30) minute meal
13 periods to Non-Exempt Employees on days in which they worked in excess of five (5)
14 hours and/ or in excess of ten (10) hours and failing to compensate said employees one
15 hour wages in lieu of meal periods;
- 16 iv. Whether Defendants violated Labor Code section 226.7 and applicable IWC
17 Wage Orders by failing to authorize and permit minimum ten (10) minute rest periods to
18 Non-Exempt Employees for every four hours or major fraction thereof worked and
19 failing to compensate said employees one (1) hours wages in lieu of rest periods;
- 20 v. Whether Defendants violated sections 201-203 of the Labor Code and applicable
21 IWC Wage Orders by failing to pay all earned wages and/or premium wages due and
22 owing at the time that any Non-Exempt Employees' employment with Defendants
23 terminated
- 24 vi. Whether Defendants violated section 204 of the Labor Code and applicable IWC
25 Wage Orders by failing to timely pay all earned wages to Non-Exempt Employees.
- 26 vii. Whether Defendants violated section 226 of the Labor Code and applicable IWC
27 Wage Orders by failing to, among other violations, maintain accurate records of Non-
28 Exempt Employees' earned wages, work periods, meal periods and deductions; and

viii. Whether Defendants violated section 17200 *et seq.* of the Business and Professions Code through their violation of the above-referenced Labor Code and Civil Code sections and applicable IWC Wage Orders which violation constitutes a violation of fundamental public policy.

C. Typicality

25. The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff and all members of the Class sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of California laws, regulations, and statutes as alleged herein.

D. Adequacy of Representation

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

E. Superiority of Class Action

27. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

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

VI.
CAUSES OF ACTION

First Cause of Action

Failure to Pay Lawful Wages Owed
(Lab. Code §§ 510, 1194, IWC Wage Orders)

(Against All Defendants)

29. Plaintiff repeats and incorporates herein by reference every allegation set forth above, as though fully set forth herein.

30. As alleged herein, Defendants' policies and/or practices resulted in Plaintiff and Class Members working off-the-clock and in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without receiving the proper overtime compensation at the rate of time and one-half (1 1/2) of such employee's regular rate of pay.

31. As alleged herein, Defendants' policies and/or practices resulted in Plaintiff and Class Members not receiving minimum wages for time spent working off-the-clock while subject to the control of Defendant all without pay.

32. As a result of Defendants unlawful acts, Plaintiff, and the Class she seeks to represent, were deprived of compensation for all earned wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code section 1194.

33. WHEREFORE, Plaintiff and Class Members request relief as described herein and below.

Second Cause of Action

Failure to Provide Lawful Meal Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, 512, IWC Wage Orders)
(Against All Defendants)

34. Plaintiff repeats and incorporates herein by reference every allegation set forth above, as though fully set forth herein.

35. As alleged herein, by their failure to provide thirty (30) minute uninterrupted meal periods by the end of the fifth hour for days which Plaintiff and Class Members worked in excess of five (5) hours and/or in excess of ten (10) hours and failing to provide compensation for such statutorily non-compliance, Defendants violated the provisions of Labor Code §512 and applicable IWC Wage Orders.

1 36. As a result of Defendants unlawful acts, Plaintiff, and the Class she seeks to
2 represent, were deprived of premium wages and are entitled to recovery of such amounts, plus
3 interest and penalties thereon under Labor Code §226.7.

4 37. WHEREFORE, Plaintiff and Class Members request relief as described herein and
5 below.

6 **Third Cause of Action**
7 Failure to Provide Rest Periods
8 Or Compensation in Lieu Thereof
9 (Lab. Code §§226.7, IWC Wage Orders)
10 (Against All Defendants)

11 38. Plaintiff repeats and incorporates herein by reference every allegation set forth
12 above, as though fully set forth herein.

13 39. As alleged herein, by their failure to authorize and permit a minimum ten (10)
14 minute rest period for every four (4) hours or major fraction thereof worked per day by Non-
15 Exempt Employees, and failing to provide compensation for such non-provided rest periods, as
16 alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and IWC
17 applicable Wage Orders.

18 40. As a result of Defendants' unlawful acts, Plaintiff, and Class Members were deprived
19 of premium wages, and are entitled to recovery of such amounts, plus interest and penalties thereon
20 under Labor Code §226.7.

21 41. WHEREFORE, Plaintiff and Class Members request relief as described herein and
22 below.

23 **Fourth Cause of Action**
24 Failure to Timely Pay Wages Due at Termination
25 Lab. Code §§ 201-203, 227.3, IWC Wage Orders)
26 (Against All Defendants)

27 42. Plaintiff incorporates by reference and realleges every allegation contained above,
28 as though fully set forth herein.

 43. Sections 201 and 202 of the California Labor Code require Defendants to pay its
employees all wages due within 72 hours of termination of employment. Section 203 of the Labor
Code provides that if an employer willfully fails to timely pay such wages the employer must, as

1 a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an
2 action is commenced. The penalty cannot exceed 30 days of wages.

3 44. Plaintiff and Class members are entitled to compensation for all forms of wages
4 earned, including compensation for working off the clock, non-provided rest and meal periods,
5 but to date have not received such compensation therefore entitling them Labor Code section 203
6 penalties.

7 45. More than 30 days have passed since Plaintiff and Class Members have left
8 Defendants' employ, and on information and belief, have not received payment pursuant to Labor
9 Code §203. As a consequence of Defendants' willful conduct in not paying all earned wages,
10 certain Class Members are entitled to 30 days' wages as a penalty under Labor Code section 203
11 for failure to pay legal wages.

12 46. WHEREFORE, Plaintiff and Class Members request relief as described herein and
13 below.

14
15 **Fifth Cause of Action**
16 Knowing and Intentional Failure to Comply with Itemized Employee
17 Wage Statement Provisions
(Lab. Code § 226, IWC Wage Orders)
(Against All Defendants)

18
19 47. Plaintiff repeats and incorporates herein by reference every allegation set forth
20 above, as though fully set forth herein.

21 48. Section 226(a) of the California Labor Code requires Defendants to itemize in
22 wage statements all deductions from payment of wages and to accurately report total hours worked
23 by Plaintiff and Class Members. IWC Wage Orders require Defendants to maintain time records
24 showing, among others, when the employee begins and ends each work period, meal periods, split
25 shift intervals and total daily hours worked in an itemized wage statement, and must show all
26 deductions and reimbursements from payment of wages, and accurately report total hours worked
27 by Plaintiff and Class Members. On information and belief, Defendants have failed to record all
28 or some of the items delineated in Industrial Wage Orders and Labor Code §226.

1 49. Defendants violated Section 226(a)(2) by failing to provide Plaintiff and Class
2 Members with wage statements that accurately showed the total hours they worked. Defendants
3 violated Section 226(a)(5) by failing to provide Plaintiff and Class Members with statements of
4 wages that accurately showed the net wages earned for regular hours worked, overtime hours
5 worked. Defendants violated Section 226(a)(9) by failing to provide Plaintiff and Class Members
6 with wage statements that accurately show the applicable hourly rates in effect during the pay
7 period and the corresponding number of hours worked at each hourly rate.

8 50. Plaintiff and Class Members have been injured by Defendants' actions by rendering
9 them unaware of the full compensation to which they were entitled under applicable provisions of
10 the California Labor Code and applicable IWC Wage Orders.

11 51. Pursuant Labor Code §226, Plaintiff and Class Members are entitled up to a
12 maximum of \$4,000.00 each for record-keeping violations.

13 52. WHEREFORE, Plaintiff and Class Members request relief as described herein and
14 below.

15
16 **Sixth Cause of Action**
17 Violation of Unfair Competition Law
 (Bus. & Prof. Code, §§ 17200-17208)

18 53. Plaintiff repeats and incorporates herein by reference every allegation set forth
19 above, as though fully set forth herein

20 54. Business & Professions Code Section 17200 provides:

21 As used in this chapter, unfair competition shall mean and include any **unlawful, unfair**
22 or fraudulent business act or practice and unfair, deceptive, untrue or misleading
23 advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of
24 Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

25 55. Defendants' violations of the Labor Code and Wage Order provisions set forth
26 above constitute unlawful and/or unfair business acts or practices.

27 56. The actions of Defendants, as alleged within this Complaint, constitute false,
28 fraudulent, unlawful, unfair, and deceptive business practices, within the meaning of Business and
Professions Code section 17200, *et seq.*

