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ATTORNEYS FOR PLAINTIFF ERICH DESKINS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ERICH DESKINS, an individual, in his
representative capacity,

Plaintiff,

v.

INFOSYS LIMITED, a foreign corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: **21STCV15489**

**REPRESENTATIVE ACTION
COMPLAINT:**

1. Penalties Pursuant to Labor Code § 2699,
et seq. for Labor Code violations

Demand for Jury Trial

1 Plaintiff Eric Deskins (“Plaintiff”), on behalf of himself and the people of the State of
2 California and as an “aggrieved employee” under the Labor Code Private Attorneys General Act
3 of 2004, §2699, *et seq.* (“PAGA”) complains against Infosys Limited (“Infosys” or
4 “Defendant”), a corporation, and DOES 1 to 50 (collectively, “Defendants”), as follows:

5 **INTRODUCTION**

6 1. Plaintiff is and was non-exempt Technology Lead with Infosys. Plaintiff brings
7 this action under PAGA on a representative basis. The aggrieved employees are all current and
8 former non-exempt Infosys employees who was required to be “on-call” and/or attend
9 coordination calls (or calls of a similar title) without compensation.

10 2. The California Labor Code requires employers to provide its employees, among
11 other things, accurate wage statements, meal and rest periods, minimum and overtime wages,
12 reimbursement of necessary expenses, and prompt payment of wages during employment and
13 upon termination. Infosys failed to comply with California Labor code requirements due to its
14 policy to force its employees to work “off the clock” as described above. Plaintiff, in his
15 representative capacity, seek civil penalties on behalf of himself and other aggrieved employees
16 pursuant to PAGA.

17 3. Infosys has had a consistent policy and/or practice of: (1) permitting, encouraging,
18 and/or requiring its non-exempt employees to work in excess of eight hours per day and/or in
19 excess of forty hours per week without overtime; (2) failing to pay minimum wage for all hours
20 worked; (3) failing to provide off-duty meal periods; (4) failing to provide off-duty rest periods;
21 (5) failing to properly compensate all wages twice each calendar month on days designated in
22 advance by the employer as the regular paydays; (6) failing to furnish timely and accurately
23 furnish itemized wage statements; (7) failing to fully reimburse necessary business expenses; and
24 (8) failing to promptly pay all compensation upon termination of employment.

25 **JURISDICTION & VENUE**

26 4. The Superior Court of the State of California has jurisdiction over Plaintiff’s
27 claims for civil penalties under PAGA.

28 5. Venue is proper in this judicial district and the County of Los Angeles, California,

1 because Plaintiff and the aggrieved employees performed work for Defendants in the County of
2 Los Angeles, Defendants maintain offices and facilities and transact business in the County of
3 Los Angeles, and/or Defendants' illegal policies and practices that are the subject of this action
4 were applied, at least in part, to Plaintiff and the other aggrieved employees in the County of Los
5 Angeles.

6 **THE PARTIES**

7 6. At all times relevant, Plaintiff is and was a resident of State of California. Plaintiff
8 is and was employed by Infosys as a non-exempt employee in California during the statutory
9 period.

10 7. Plaintiff and all current and former employees are aggrieved employees within
11 the meaning of Labor Code §2699, *et seq.*

12 8. On information and belief, Infosys Limited is now, and at all times mentioned in
13 this complaint, was, a foreign corporation organized and existing under the laws of India and
14 qualified to do business in California.

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

23 10. Plaintiff is informed and believes, and based thereon alleges, that each of the
24 Defendants acted in all respects pertinent to this action as the agent of the other Defendants,
25 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
26 each of the Defendants are legally attributable to the other Defendants.

27 11. The Defendants named herein as DOE 1 through DOE 50 are and were persons
28 acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated,

one or more provisions of the California Labor Code and public policy as alleged herein.

12. Furthermore, Defendants acted in all respects as the employers or joint employers of Aggrieved Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Aggrieved Employees, or suffered or permitted the Aggrieved Employees to work, or engaged, thereby creating a common law employment relationship, with the Aggrieved Employees. Therefore, Defendants, and each of them, employed or jointly employed the Aggrieved Employees.

FACTUAL ALLEGATIONS

13. Plaintiff often worked over 8 hours a workday and/or 40 hours in a week without overtime compensation. In 2020, after the conclusion of his normal workday, Plaintiff was required to attend regular and ongoing phone conference meetings with offshore teams or otherwise coordinate with them outside working hours. Plaintiff was also required to be “on call” at least once a month from Friday through Sunday from the hours of 6 PM to midnight in order to take phone calls and perform ad hoc tasks as required by the clients of Infosys. Plaintiff contends that such standby time unduly restricted Plaintiff’s ability to engage in personal activities due to frequency of the calls, the expected response time, and the type of work that he would be expected to perform, and should, therefore, be compensatory. Additionally, Plaintiff regularly worked through meal and rest breaks to complete his tasks.

14. Throughout this employment, Infosys did not require Plaintiff to clock in or out or otherwise submit his timesheets to document his overtime work or the work he performed without a meal or rest break. Plaintiff alleges that his supervisors had knowledge that Plaintiff would regularly work overtime hours and work without a meal or rest break, but failed to compensate him for such time.

15. Additionally, Infosys did not reimburse Plaintiff for cell phone usage, internet usage, and personal telephones – all of which are required for Plaintiff to perform his duties when working remotely for Infosys.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

16. On February 9, 2021, Plaintiff filed a claim notice online with the California

1 LWDA, LWDA Case No. LWDA-CM-821284-21, and mailed the same via certified mail to
2 Infosys. The LWDA did not provide notice of its intention to investigate Infosys's alleged
3 violations within sixty-five (65) calendar dates of the February 9, 2021 online claim notice
4 submitted by Plaintiff. As such, Plaintiff has exhausted his administrative requirements for
5 bringing a claim under PAGA.

6 17. Plaintiff is informed and believes and thereon alleges that Infosys has a pattern
7 and practice of requiring its non-exempt employees to work "off the clock" when communicating
8 or coordinating with its offshore teams outside working hours or being "on call" to take phone
9 calls and perform ad hoc tasks as required by the clients of Infosys.

10 18. Plaintiff is informed and believes and thereon alleges that Infosys has a pattern
11 and practice of not requiring is non-exempt employees to clock in or out or otherwise submit
12 their timesheets to document their overtime work or the work he performed without a meal or
13 rest break.

14 19. Plaintiff is informed and believes and thereon alleges that the supervisors at
15 Infosys have knowledge that its employees regularly work overtime hours and work without a
16 meal or rest break without compensation.

17 20. Plaintiff is informed and believes and thereon alleges that Infosys violated PAGA
18 in the following ways: (1) permitting, encouraging, and/or requiring its non-exempt employees
19 to work in excess of eight hours per day and/or in excess of forty hours per week without paying
20 them overtime compensation in violation of Labor Code §§510, 558, 1194 and 1198; (2) failing
21 to pay its non-exempt employees a minimum wage for all hours worked in violation of Labor
22 Code §§1194 and 1197; (3) failing to provide its non-exempt employees with adequate off-duty
23 meal periods of at least one-half hour for every five hours worked in violation of Labor Code
24 §§226.7, 512, and 558; (4) failing to provide its non-exempt employees with adequate off-duty
25 rest periods of at least ten minutes for every four hours or major fraction thereof in violation of
26 Labor Code §§226.7, 512 and 518; (5) failing to properly compensate its non-exempt employees
27 for all wages twice each calendar month on days designated in advance by the employer as the
28 regular paydays in violation of Labor Code §204(a); (6) knowingly and intentionally failing to

1 furnish timely itemized wage statements accurately showing the total hours worked and/or hourly
2 rate paid to its non-exempt employees in violation of Labor Code §§226(a), 1174 and 1174.5;
3 (7) requiring its non-exempt workers incur business-related expenses but failing to fully
4 reimburse them for these costs in violation of Labor Code §2802; (8) willfully failing to pay
5 compensation in a prompt and timely manner to its non-exempt employees in violation of Labor
6 Code §§201, 202, 203, 512 and 558.

7 **FIRST CAUSE OF ACTION**

8 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT (“PAGA”)**

9 **[Cal. Labor Code § 2698 *et seq.*]**

10 21. Plaintiff realleges and incorporates by reference all previous paragraphs.

11 22. Plaintiff is an “aggrieved employee” under PAGA as he was employed by Infosys
12 during the applicable statutory period and suffered one or more of the Labor Code violations set
13 forth herein. Accordingly, he seeks to recover on behalf of himself and all other current and
14 former aggrieved employees of Infosys, the civil penalties provided by PAGA, plus reasonable
15 attorney’s fees and costs.

16 23. Plaintiff seeks to recover PAGA civil penalties through a representative action.
17 Therefore class certification of the PAGA claims is not required.

18 24. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following
19 Labor Code provisions:

- 20 a. failure to pay overtime wages in violation of Labor Code §§510, 558, 1194
21 and 1198;
22 b. failure to pay minimum wages in violation of Labor Code §1194 and 1197;
23 c. failure to provide off-duty meal periods in violation of Labor Code §§226.7,
24 512, and 558;
25 d. failure to provide off-duty rest periods in violation of Labor Code §§226.7,
26 512 and 518;
27 e. failure to properly compensate its non-exempt employees for all wages twice
28 each calendar month on days designated in advance by the employer as the

- regular paydays in violation of Labor Code §204(a);
- f. failure to provide itemized wage statements in violation of Labor Code §§226(a), 1174 and 1174.5;
- g. failure to reimburse necessary expenditures incurred in direct consequence of the discharge of employment duties in violation of Labor Code §2802;
- h. failure to pay compensation in a prompt and timely manner upon termination of employment in violation of Labor Code §§201, 202, 203, 512 and 558.

25. On February 9, 2021, Plaintiff filed a claim notice online with the California LWDA, as prescribed by Labor Code §2698 *et seq.* On February 9, 2021, Plaintiff mailed a claim notice to Infosys via certified mail return receipt verifying that it received Plaintiff's letter. Pursuant to Labor Code §2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within 65 calendar days of the postmark date of the notice. Therefore, Plaintiff is entitled to commence a civil action as though the LWDA has chosen not to investigate.

26. Plaintiff was compelled to retain the services of counsel to file this court action to protect the interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code §2699 *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff individually and on behalf of the aggrieved employees, prays for judgment against Infosys as follows:

- a. An award of civil penalties pursuant to PAGA;
- b. An award of reasonable attorneys' fees and costs pursuant to Labor Code §2699(g) and/or other applicable law;
- c. An award of prejudgment and post judgment interest; and
- d. Such other and further relief as this Court may deem proper and just.

1 DATED: April 23, 2021

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LIANG LY LLP
HELEN KIM LAW, APC

4 By: /s/ Frank H. Kim
5 Frank H. Kim, Esq.
6 John Ly, Esq.
7 Helen U. Kim, Esq.
8 *ATTORNEYS FOR PLAINTIFF*

REQUEST FOR JURY TRIAL

9 Plaintiffs hereby request trial by jury.

10 DATED: April 23, 2021

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17 *ATTORNEYS FOR PLAINTIFF*