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others similarly situated

FILED
Superior Court of California
County of Los Angeles

11/01/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: C. Mason Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JULIANA OLIVER, individually and on
behalf of all others similarly situated

Plaintiff,

vs.

UMPQUA BANK; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 21STCV15996

*Assigned for all purposes to:
Hon. Judge Gregory W. Alarcon
Dept.: 36*

**SECOND AMENDED COMPLAINT FOR
VIOLATION OF THE CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS GENERAL
ACT OF 2004 (CAL. LAB. CODE §§ 2698, ET
SEQ.)**

1 Plaintiff Juliana Oliver, individually, and on behalf of other aggrieved employees, alleges
2 as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Juliana Oliver (“Plaintiff”) brings this representative action pursuant to
5 the Private Attorneys’ General Act of 2004, Cal. Lab. Code. § 2698 *et seq.* (“PAGA”), against
6 defendants Umpqua Bank, and DOES 1 through 20, inclusive (collectively, “Defendants”), on
7 behalf of herself individually and on behalf of all non-exempt employees currently or formerly
8 employed by Defendants within the state of California.

9 2. Defendants are in the banking industry.

10 3. Through this action, Plaintiff alleges that Defendants have engaged in a
11 systematic pattern of wage and hour violations under the California Labor Code and Industrial
12 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
13 unfair competition.

14 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
15 increased their profits by violating state wage and hour laws by, among other things:

- 16 (a) failing to pay all wages (including minimum wages and overtime wages);
- 17 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 18 (c) failing to authorize or permit lawful rest breaks or provide compensation
19 in lieu thereof;
- 20 (d) failing to provide accurate itemized wage statements;
- 21 (e) failing to pay all wages due upon separation of employment.

22 5. Plaintiff seeks monetary relief against Defendants on behalf of herself and all
23 others similarly situated in California to recover civil penalties, attorneys’ fees, costs and
24 expenses, for violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510,
25 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*

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1 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
2 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
3 all relevant times.

4 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
5 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
6 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
7 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
8 the employer and/or joint employer of Plaintiff and the other aggrieved employees.

9 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
10 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
11 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
12 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
13 official policy of Defendants.

14 16. At all relevant times, Defendants, and each of them, acted within the scope of such
15 agency or employment, or ratified each and every act or omission complained of herein. At all
16 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
17 and all the other Defendants in proximately causing the damages herein alleged.

18 17. Plaintiff is informed and believes, and thereon alleges, that each of said
19 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
20 omissions, occurrences, and transactions alleged herein.

21 **GENERAL ALLEGATIONS**

22 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
23 California residents as non-exempt employees at Defendants' California business location(s).

24 19. Defendant employed Plaintiff as a non-exempt employee at Defendants'
25 California business location(s) during the relevant time period.

26 20. Defendants continue to employ non-exempt employees within California.

27 21. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who

1 were knowledgeable about California's wage and hour laws, employment and personnel
2 practices, and the requirements of California law.

3 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
5 for all time worked (including minimum wages and overtime wages) and that they were not
6 receiving all wages earned for work that was required to be performed. In violation of the Labor
7 Code and IWC Wage Orders, Plaintiff and other aggrieved employees were not paid all wages
8 (including minimum wages and overtime wages) for all hours worked at the correct rate due to
9 requirements to work off-the-clock, rounding of time punches in Defendants' favor, and
10 Defendants' failure to correctly include other incentive pay in the overtime rate, and failing to
11 pay sick time at the regular rate of pay, among other issues.

12 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other aggrieved employees were entitled to receive all
14 required meal periods or payment of one (1) additional hour of pay at Plaintiff's and other
15 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted meal
16 period. In violation of the Labor Code and IWC Wage Orders, Plaintiff and other aggrieved
17 employees did not receive all meal periods or payment of one (1) additional hour of pay at
18 Plaintiff's and other aggrieved employees' regular rate of pay when they did not receive a timely,
19 uninterrupted meal period. Aggrieved employees frequently worked shifts over five hours and
20 did not receive lawful meal periods because Defendants required its employees to clock out and
21 keep working during meal periods, interrupted employee meal periods, required employees to
22 work during their meal periods, failed to provide coverage for employees to take meal periods,
23 and failed to schedule meal periods at the appropriate intervals, and as a result, aggrieved
24 employees' meal periods were missed, late, short, and/or interrupted.

25 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other aggrieved employees were entitled to receive all rest
27 breaks or payment of one (1) additional hour of pay at Plaintiff's and other aggrieved employees'
28 regular rate of pay when a rest break was missed. In violation of the Labor Code and IWC Wage

1 Orders, Plaintiff and other aggrieved employees did not receive all rest breaks or payment of one
2 (1) additional hour of pay at Plaintiff's and other aggrieved employees' regular rate of pay when
3 a rest break was missed. Defendants failed to authorize or permit aggrieved employees to take
4 10-minute rest periods for every four hours or major fraction thereof worked because aggrieved
5 employees were required to work through their rest periods, were not authorized to take their rest
6 periods, were required to remain on premises during rest periods, and were not scheduled to be
7 relieved by other employees at the appropriate intervals to receive all rest periods, and as a result,
8 aggrieved employees' rest breaks were missed, late, short, and/or interrupted..

9 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and other aggrieved employees were entitled to receive itemized
11 wage statements that accurately showed the following information pursuant to the Labor Code:
12 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
13 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
14 deductions, provided that all deductions made on written orders of the employee may be
15 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
16 which the employee is paid; (7) the name of the employee and only the last four digits of his or
17 her social security number or an employee identification number other than a social security
18 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
19 hourly rates in effect during the pay period and the corresponding number of hours worked at
20 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and other aggrieved
21 employees were not provided with accurate itemized wage statements due to Defendant's failure
22 to list the rates or hours for shift differentials, failure to list the employee identification number
23 of last four digits of the social security number, and failure to list the hours and rates for certain
24 overtime pay or list the right inclusive dates to the extent some overtime pay was from a prior
25 pay period, among other issues. The wage statements also did not contain accurate hours, rates,
26 and wages due to the violations described above.

27 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known they had a duty to compensate Plaintiff and other aggrieved employees, and

1 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
2 intentionally failed to do so in order to increase Defendants' profits.

3 27. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief
4 against Defendants on behalf of herself and all other aggrieved employees to recover, among
5 other things, unpaid wages (including minimum wages and overtime wages), unpaid meal period
6 premium payments, unpaid rest period premium payments, interest, attorneys' fees, penalties,
7 costs, and expenses.

8 **FIRST CAUSE OF ACTION**

9 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

10 28. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs as
11 though fully set forth herein.

12 29. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
13 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
14 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
15 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
16 an aggrieved employee on behalf of himself or herself and other current or former employees
17 pursuant to the procedures specified in Labor Code § 2699.3.

18 30. For all provisions of the Labor Code except those for which a civil penalty is
19 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
20 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
21 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
22 period in which Defendants violated these provisions of the Labor Code.

23 31. Defendants' conduct violates numerous Wage Order and Labor Code sections,
24 including, but not limited to, the following:

- 25 a. violation of Labor Code §§ 201-, 202, 203, 204, 210, 246, 510, 558,
26 1182.12, 1194, 1197, and 1198 for failure to timely pay all earned wages
27 (including minimum wage and overtime wages) owed to Plaintiff and other
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aggrieved employees during employment and upon separation of employment as herein alleged;

- b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal periods as herein alleged;
- c. violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;
- d. violation of Labor Code § 226 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;
- e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and complete records showing, among other things, the hours worked daily by and the wages paid to aggrieved employees.

32. Plaintiff is an “aggrieved employee” because she was employed by the alleged violator and had one or more of the violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

33. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

34. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

35. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

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1 **PRAYER FOR RELIEF**

2 Plaintiff, on her own behalf and on behalf of all others similarly situated, prays for relief
3 and judgment against Defendants, jointly and severally, as follows:

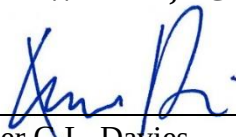
4 1. For civil penalties against Defendants on behalf of all aggrieved employees
5 and the LWDA pursuant to Labor Code § 2698, *et seq.*;

6 2. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted
7 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code § 2698
8 *et seq.*; and

9 3. For such other relief as the Court deems just and proper.

10
11 Dated: September 24, 2021

AEGIS LAW FIRM, PC

12
13 By: 

Alexander G.L. Davies

14 Attorneys for Plaintiff Juliana Oliver
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1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On November 1, 2021, I served the foregoing document entitled:

5 • **SECOND AMENDED COMPLAINT FOR VIOLATION OF THE**
6 **CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**
7 **OF 2004 (CAL. LAB. CODE §§ 2698, ET SEQ.)**

on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true
copy thereof on the party(ies) addressed below as follows:

8 Rabia Z. Reed
9 Michael Nader
OGLEETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.
10 500 Capitol Mall, Suite 2500
11 Sacramento, CA 95814
12 Telephone: 916.840.3150
13 Facsimile: 916.840.3159
Rabia.reed@ogletree.com
joani.wise@ogletreedeakins.com
Michael.Nader@ogletreedeakins.com

14 *Attorneys for Defendant:*

15 UMPQUA BANK

16 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
17 correspondence for mailing. Under that practice it would be deposited with the U.S.
18 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
19 in the ordinary course of business. I am aware that on motion of the party served, service
is presumed invalid if postage cancellation date or postage meter date is more than one
day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*
R. Civ. Proc. 5(a); *Fed. R. Civ. Proc.* 5(c).)

20 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
21 practice of Aegis Law Firm PC for collection and processing correspondence for
22 overnight delivery, and I caused such document(s) described herein to be deposited for
delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

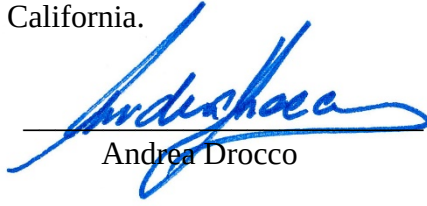
23 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
24 electronic transmission via Case Anywhere on the date below. (*Cal. Code Civ. Proc.* §
1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

25 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
26 the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
5(b)(2)(A).)

27 ///

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on November 1, 2021, at Irvine, California.

4 
5 Andrea Drocco