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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

RAUL ESPINOZA, Individually, and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

SANMINA CORPORATION, a Delaware
Corporation; and DOES 1 through 100,
Inclusive,

Defendants.

Case No. 21CV382662

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. **Failure To Provide Meal Breaks** [Lab. Code §§ 226.7 and 512];
2. **Failure To Authorize and Permit Rest Breaks** [Lab. Code § 226.7];
3. **Failure To Furnish Complete and Accurate Wage Statements** [Lab. Code § 226(a)];
4. **Failure To Timely Pay Wages Upon Termination Or Resignation** [Lab. Code §§ 201, 202, And 203];
5. **Unfair Business Practices** [Bus. & Prof. Code §§ 17200, *Et Seq.*]; and
6. **Violation of PAGA** [Lab. Code §§ 2698, *Et Seq.*].

DEMAND FOR JURY TRIAL

Assigned for All Purposes to:
Hon. Sunil R. Kulkarni, Dept. 1

Action Filed: June 2, 2021

1 Plaintiff RAUL ESPINOZA (“Plaintiff”), an individual, on behalf of himself and all others
2 similarly situated, and aggrieved employees hereby alleges the following facts and claims against
3 SANMINA CORPORATION (“Sanmina”) and DOES 1 through 100, inclusive (“Defendants”),
4 and respectfully requests a trial by jury of all issues and causes of action so triable:

5 **I. INTRODUCTION**

6 1. This class action and representative action complaint challenges Defendants’ past
7 and ongoing unlawful employment practices and policies on behalf of Plaintiff, aggrieved
8 employees, and similarly situated current and former non-exempt employees of Defendants in
9 California, whose rights Defendants violated and continue to violate under California laws.

10 2. On May 28, 2021, Plaintiff submitted notice to the California Labor and Workforce
11 Development Agency (“LWDA”), identifying Defendants’ alleged violations of California’s
12 Labor Code together with facts and theories supporting the alleged violation, pursuant to Labor
13 Code 2699.3. The LWDA did not respond with advisement of its intent to investigate the alleged
14 violations within the requisite time, thus, Plaintiff may¹ and now amends this Complaint to also
15 allege a representative action claim pursuant to the California Private Attorneys General Act of
16 2004 (Cal. Lab. Code § 2698 *et seq.*) on behalf of the LWDA for Defendants’ aggrieved
17 employees.

18 3. Specifically, with regard to Plaintiff and similarly situated current and former non-
19 exempt employees, Defendants have uniformly and systematically:

- 20 a. Failed and continue to fail to provide meal periods in violation of Labor Code
21 sections 226.7 and 512 and Section 11 of the IWC Wage Order(s);
22 b. Failed and continue to fail to authorize and permit all paid rest periods in
23 violation of Labor Code sections 226.7 and Section 12 of the IWC Wage
24 Order(s);
25 c. Failed and continue to fail to furnish complete and accurate itemized wage

26
27 ¹ PAGA provides that “[n]otwithstanding any other provision of law, a plaintiff may as a matter of
28 right amend an existing complaint to add a cause of action arising under [PAGA] at any time
within 60 days of the time periods specified [by the statute].” Lab. Code § 2699.3(a)(2)(C).

statements in violation of Labor Code section 226, subdivision (a);

- d. With regard to former non-exempt employees only, willfully failed and continue to fail to pay, without abatement or reduction, all final wages owed in accordance with Labor Code sections 201 and 202, in violation of Labor Code section 203;
- e. Committed and continue to commit unfair business practices in violation of California Business & Professions Code section 17200, *et seq.*; and
- f. Incurred penalties by having violated and by continuing to violate of the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698, *et seq.*

4. The acts complained of herein occurred, occur and will occur, at least in part, within the time period from four (4) years preceding the filing of the original Complaint herein, up to and through the time of trial for this matter, although this should not automatically be considered the statute of limitations for any cause of action herein.

5. As a result of the foregoing, Plaintiff seeks monetary damages, civil penalties, injunctive relief, restitution, reasonable attorneys’ fees, costs, and interest.

6. Plaintiff also brings this representative action against Defendants for civil penalties pursuant to PAGA, Labor Code section 2698, *et seq.*, resulting from Defendants’ wage and hour violations under the California Labor Code and the IWC Wage Orders. PAGA permits an aggrieved employee to bring a lawsuit on behalf of herself and other current and former non-exempt employees (“aggrieved employees”) to recover civil penalties for an employer’s violation of the California Labor Code.

II. PARTIES

7. Plaintiff RAUL ESPINOZA is an individual over the age of eighteen (18), and is now and/or at all times mentioned in this Complaint a California citizen residing in Santa Clara County, California. From approximately October 25, 2020 to February of 2021, Plaintiff worked for Defendants as an hourly paid, non-exempt welder at Defendants’ facilities located in Fremont, California. At all times herein, Plaintiff was and is an “employee” as that term is used in the Labor Code and IWC Wage Orders regulating wages, hours, and working conditions.

1 8. Plaintiff seeks the recovery alleged herein from Defendants because, at all times
2 while working for Defendants in his capacity as a non-exempt employee, Defendants:

- 3 a. Failed to provide meal periods in violation of Labor Code sections 226.7 and
4 512 and Section 11 of the IWC Wage Order(s);
- 5 b. Failed to authorize and permit all paid rest periods in violation of Labor Code
6 sections 226.7 and Section 12 of the IWC Wage Order(s);
- 7 c. Failed to furnish complete and accurate itemized wage statements in violation
8 of Labor Code section 226, subdivision (a), and Section 7 of IWC Wage
9 Order(s);
- 10 d. Violated Labor Code section 203 by willfully failing to pay, without abatement
11 or reduction, all final wages owed in accordance with Labor Code sections 201
12 and 202;
- 13 e. Conducted unfair business practices in violation of Business & Professions
14 Code section 17200, *et seq.*; and
- 15 f. Incurred penalties by having violated and by continuing to violate PAGA,
16 Labor Code section 2698, *et seq.*

17 9. Defendant SANMINA CORPORATION (“Sanmina”) is a Delaware corporation
18 headquartered in California, and is registered with the California Secretary of State to do business
19 within California. Sanmina, at all relevant times herein has conducted business within California,
20 and is the owner and operator of an industry, business and/or facility licensed to do business and
21 actually doing business in the State of California as an electronics manufacturing services
22 provider. On information and belief, Sanmina’s principle place of business is, as listed on the
23 California Secretary of State’s website, 2700 N First St, San Jose, California 95134. Upon
24 information and belief, Sanmina also maintains multiple facilities throughout the State of
25 California.² Defendant Sanmina is an “employer” as the term is used in the Labor Code and IWC
26 Wage Orders.

27 _____
28 ² See, <https://www.sanmina.com/locations/> (last accessed May 27, 2021).

1 10. The Defendants sued by the fictitious names DOES 1 through 100, inclusive, are on
2 information and belief now, and/or at all times mentioned in this Complaint were licensed to do
3 business and/or actually doing business in California, including Santa Clara County, and each of
4 the fictitiously named Defendants is responsible for the conduct alleged in this Complaint.
5 Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of
6 DOES 1 through 100, inclusive and for that reason, DOES 1 through 100 are sued under such
7 fictitious names pursuant to Code of Civil Procedure section 474. Plaintiff will seek leave of court
8 to amend this Complaint to allege such names and capacities as soon as they are ascertained.

9 11. Defendants, and each of them, are now and/or at all times mentioned in this
10 Complaint were in some manner legally responsible for the events, happenings and circumstances
11 alleged in this Complaint.

12 12. Defendants, and each of them, proximately subjected Plaintiff to the unlawful
13 practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

14 13. Defendants, and each of them, are now and/or at all times mentioned herein were
15 the agents, servants and/or employees of some or all other Defendants, or vice-versa, and in doing
16 the things alleged in this Complaint, Defendants are now and/or at all times mentioned in this
17 Complaint were acting within the course and scope of that agency, servitude and/or employment.

18 14. Defendants, and each of them, are now and/or at all times mentioned in this
19 Complaint were members of and/or engaged in a joint venture, partnership and common
20 enterprise, and were acting within the course and scope of, and in pursuance of said joint venture,
21 partnership and common enterprise.

22 15. Defendants, and each of them, at all times mentioned in this Complaint concurred
23 and contributed to the various acts and omissions of each and every one of the other Defendants in
24 proximately causing the complaints, injuries and/or damages alleged in this Complaint.

25 16. Defendants, and each of them, at all times mentioned in this Complaint approved
26 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in
27 this Complaint.

28 17. Defendants, and each of them, at all times mentioned in this Complaint aided and

1 abetted the acts and omissions of each and every one of the other Defendants thereby proximately
2 causing the damages alleged in this Complaint.

3 **III. JURISDICTION AND VENUE**

4 18. The California Superior Court has jurisdiction in this matter pursuant to California
5 Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all
6 causes except those given by statute to other trial courts.” The statutes under which this action is
7 brought do not specify any other specific basis for jurisdiction.

8 19. The California Superior Court also has jurisdiction in this matter because both the
9 individual and aggregate monetary damages and restitution sought herein exceed the minimal
10 jurisdictional limits of the Superior Court and will be established at trial, according to proof.

11 20. The California Superior Court also has jurisdiction over Defendants because they are
12 corporations and/or entities and/or persons with sufficient minimum contacts in California, are
13 citizens of California, or otherwise intentionally availed themselves of the California market so as to
14 render the exercise of jurisdiction over them by the California courts consistent with traditional
15 notions of fair play and substantial justice.

16 21. Venue is proper in the Superior Court of California, County of Santa Clara pursuant
17 to Code of Civil Procedure section 395(a) and Code of Civil Procedure section 395.5 in that
18 liability arose there because at least some of the acts and omissions that are the subject matter of this
19 Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts
20 business, exists, and/or has an agent therein.

21 **IV. GENERAL ALLEGATIONS**

22 22. Plaintiff, the class members, and aggrieved employees, are current and former non-
23 exempt, hourly paid employees of Defendants and thus have performed work for Defendants,
24 and/or on Defendants’ behalf, in the State of California.

25 23. Plaintiff alleges that Defendants adopted and maintained uniform policies, practices
26 and procedures governing the working conditions of, and payment of wages to, Plaintiff, the class
27 members and aggrieved employees. As alleged below, Defendants’ uniform policies, practices
28 and procedures violated California’s labor laws and constituted unfair, fraudulent or illegal

1 business practices under Business & Professions Code section 17200 *et seq.*

2 24. During the relevant statutory period, Defendants routinely failed to provide
3 Plaintiff with his paychecks prior to payday for the next regular payroll period, resulting in
4 Plaintiff being regularly paid weeks late.

5 25. During the relevant statutory period, Defendants failed to provide its non-exempt
6 hourly employees with a meal period within five (5) hours of commencing work and a second
7 meal period within ten (10) hours of commencing work, as required by California law and failed
8 to pay meal period premiums for the non-compliant meal periods. Defendants required Plaintiff and
9 other non-exempt to remain on-site through all meal breaks. Defendants compound this issue by
10 failing to reflect, display or record the timing of non-exempt employees' meal periods on their
11 timesheets.

12 26. During the relevant statutory period, Defendants failed to relinquish control over its
13 non-exempt employees to provide them with legally-compliant ten (10) minute off-duty rest
14 periods for every four (4) hours of work or major fraction thereof, as required by California law
15 and failed to pay meal period premiums for the non-compliant meal periods. Plaintiff and other
16 hourly non-exempt employees typically worked and work eight hours per day, and Defendants'
17 policies and practices routinely prevented and prevent them from taking the off-duty ten minute
18 rest periods they are entitled to by making Plaintiff and hourly non-exempt employees either miss
19 their rest periods altogether, work through their rest periods, take untimely rest periods, or take
20 shortened rest periods. For example, upon information and belief, Plaintiff and other non-exempt
21 employees were consistently prevented by their supervisors from taking the second ten-minute rest
22 periods they were entitled to during their shifts.

23 27. During the relevant statutory period, as a result of the alleged violations discussed
24 above, Defendants furnished wage statements that failed to correctly show, among other items: (1)
25 gross wages earned, (2) all deductions, and (3) net wages earned.

26 28. During the relevant statutory period, Defendants failed to pay its former non-
27 exempt hourly employees all wages owed at the time of separation of employment. For example,
28 despite Plaintiff's employment concluding on or around February 14, 2021, he did not receive his

1 final paycheck until in or around March of 2021.

2 29. Plaintiff is informed and believes, and based thereon alleges, that each and every
3 one of the acts and omissions alleged herein was performed by, and/or attributable to, Defendants
4 SANMINA CORPORATION and/or DOES 1-100 acting as agents and/or employees, and/or
5 under the direction and control of Defendants, and that said acts and failure to act were within the
6 course and scope of said agency, employment, and/or direction and control, and were committed
7 willfully.

8 30. As a direct and proximate result of Defendants' unlawful actions, Plaintiff, the
9 class members, and aggrieved employees have suffered and continue to suffer from loss of
10 earnings and penalties in amounts as yet to be ascertained, but subject to proof at trial in amounts
11 in excess of the minimum jurisdiction of this Court.

12 **V. CLASS ACTION ALLEGATIONS**

13 31. Plaintiff brings this class action complaint against Defendants, individually, and on
14 behalf of all others similarly situated pursuant to Code of Civil Procedure section 382. This action
15 may be brought and properly maintained as a class action because as set forth herein Plaintiff
16 satisfies the numerosity, adequacy, typicality, and commonality pre-requisites for suing as
17 representative parties pursuant to Code of Civil Procedure section 382.

18 32. Description of the Classes: The classes Plaintiff will seek to certify are currently
19 composed of and defined as follows:

- 20 a. All persons employed by Defendants as hourly non-exempt employees in the
21 state of California who, at any time from June 2 2017 through the conclusion of
22 this action, were subject to Defendants' policies and practices regarding meal
23 periods (hereinafter, the "Meal Period Class");
- 24 b. All persons employed by Defendants as hourly non-exempt employees in the
25 state of California who, at any time from June 2, 2017 through the conclusion
26 of this action, were subject to Defendants' policies and practices regarding rest
27 periods (hereinafter, the "Rest Period Class");
- 28 c. All persons employed by Defendants as hourly non-exempt employees in the

state of California, who at any time from June 2, 2017 through the conclusion of this action, were subject to Defendants' policies and practices regarding wage statements (hereinafter, the "Wage Statement Class");

- d. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from June 2, 2018 through the conclusion of this action, were subject to Defendants' policies and practices regarding final payment of wages (hereinafter, the "Final Pay Class");

33. Each of the aforementioned classes are referred to collectively herein as "the Classes."

34. As a consequence of obtaining information and documents through discovery in this litigation, Plaintiff may find it appropriate and/or necessary to amend the definition of the Class(es) and/or add additional classes and/or subclasses. Plaintiff will formally define and designate a class definition(s) at such time when Plaintiff seeks to certify the Classes alleged herein.

35. Numerosity: The potential number of members of each Class alleged herein is so numerous that joinder of all members is unfeasible and impractical. The exact quantity of members in each Class and the identity of all members is readily ascertainable via inspection of Defendant's records.

36. Well-defined Community of Interest: Plaintiff also meets the established standards for class certification, as follows:

- a. Typicality: The claims of Plaintiff are typical of the claims of all members of each Class she seeks to represent because all members of each Class sustained injuries and damages arising out of Defendant's common course of conduct in violation of law and the injuries and damages of all members of each Class were caused by Defendants' wrongful conduct in violation of law, as alleged herein.
- b. Adequacy: Plaintiff is an adequate representative of each Class she seeks to represent and will fairly protect the interests of the members of each Class. Plaintiff has no interest antagonistic to each Class and will vigorously pursue

1 favorable resolution of this suit on behalf of himself and members of each Class
2 via attorneys who are competent, skilled and experienced in litigating class
3 actions.

- 4 c. Predominant Common Questions of Law and/or Fact: There are common
5 questions of law and/or fact as to each Class that predominate over questions
6 affecting only individual members of each Class, including, without limitation:
- 7 i) Whether Defendants failed and continue to fail to provide all meal
8 periods in violation of Labor Code sections 226.7 and 512 and the
9 IWC Wage Order(s);
 - 10 ii) Whether Defendants failed and continue to fail to authorize and
11 permit all paid rest periods in violation of Labor Code sections
12 226.7 and the IWC Wage Order(s);
 - 13 iii) Whether Defendants failed and continue to fail to provide
14 complete and accurate itemized wage statements in violation of
15 Labor Code section 226, subdivision (a);
 - 16 iv) With regard to Defendants' former non-exempt employees,
17 whether Defendants have violated Labor Code section 203 by
18 willfully failing to pay, without abatement or reduction, all final
19 wages owed in accordance with Labor Code sections 201, 201.3,
20 201.5, 202, and 205.5;
 - 21 v) Whether Defendants' conduct constitutes unfair competition
22 within the meaning of Business & Professions Code section
23 17200, *et seq.*;
 - 24 vi) Whether members of the Classes are entitled to compensatory
25 damages, and if so, the means of measuring such damages;
 - 26 vii) Whether members of the Classes are entitled to injunctive relief;
 - 27 viii) Whether members of the Classes are entitled to restitution; and
 - 28 ix) Whether Defendants are liable for attorneys' fees and costs.

1 37. Superiority: The nature of this action and the nature of the laws available to
2 Plaintiff and members of the Classes is such that a class action is not only superior to other
3 methods, but also particularly efficient and appropriate to afford relief to Plaintiff and members of
4 the Classes for the wrongs alleged herein, as follows:

- 5 a. By allowing a method whereby claims of many individuals can be resolved at
6 the same time, the class action device eliminates the possibility of repetitious
7 litigation, inconsistent rulings, and provides small claimants with the
8 opportunity to redress for claims which would otherwise be too small to justify
9 the filing of individual actions;
- 10 b. This case involves a large corporate Defendant and a large number of
11 individuals with many relatively small claims and common issues of law and
12 fact;
- 13 c. If each individual member of the Classes was required to file an individual
14 lawsuit, the large corporate Defendant would necessarily gain an
15 unconscionable advantage because Defendant would be able to exploit and
16 overwhelm the limited resources of each individual member of the Classes with
17 Defendant's vastly superior financial and legal resources;
- 18 d. Requiring each individual member of the Classes to pursue an individual
19 remedy would also discourage the assertion of lawful claims by individual
20 members of the Classes who would be disinclined to pursue an action against
21 Defendant because of an appreciable and justifiable fear of retaliation and
22 permanent damage to their lives, careers and wellbeing;
- 23 e. Proof of a common business practice or factual pattern, of which members of
24 the Classes experienced, is representative of the Classes herein and will
25 establish the right of each member of the Classes to recover on the causes of
26 action alleged herein.

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VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(By Plaintiff, individually, and on behalf of the Meal Period Class against Defendant Sanmina and DOES 1 to 100, inclusive)

38. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

39. Labor Code section 226.7, subdivision (b), provides that “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

40. Labor Code section 512 provides that “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.”

41. Labor Code section 516 provides that the Industrial Welfare Commission “may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.”

42. Section 11(A) of the IWC Wage Order(s) provides that “Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only

1 when the nature of the work prevents an employee from being relieved of all duty and when by
2 written agreement between the parties an on-the-job paid meal period is agreed to. The written
3 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

4 43. Section 11(B) of the IWC Wage Order(s) provides that “If an employer fails to
5 provide an employee a meal period in accordance with the applicable provisions of this order, the
6 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
7 compensation for each workday that the meal period is not provided.”

8 44. On one or more occasions, Plaintiff and members of the Meal Period Class worked
9 over five (5) hours per shift and therefore were entitled to a meal period of not less than thirty (30)
10 minutes prior to exceeding five (5) hours of employment.

11 45. On information and belief, Plaintiff and members of the Meal Period Class did not
12 validly or legally waive their meal periods, by mutual consent with Defendants or otherwise.

13 46. On information and belief, Plaintiff and members of the Meal Break Class did not
14 enter into any written agreement with Defendants agreeing to an on-the-job paid meal period.

15 47. As a matter of Defendants’ established company policy implemented, Defendants
16 failed to comply with the meal period requirements established by Labor Code sections 226.7,
17 512, and 516, and Section 11 of the IWC Wage(s) by failing to provide Plaintiff and members of
18 the Meal Period Class with a first and a second legally compliant meal period.

19 48. Section 11(B) of the IWC Wage Order(s) and Labor Code section 226.7,
20 subdivision (c), provides that “If an employer fails to provide an employee a meal or rest or
21 recovery period in accordance with a state law, including, but not limited to, an applicable statute
22 or applicable regulation, standard, or order of the Industrial Welfare Commission, the
23 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
24 Health, the employer shall pay the employee one additional hour of pay at the employee’s regular
25 rate of compensation for each workday that the meal or rest or recovery period is not provided.”

26 49. As a matter of Defendants’ established company policy, Defendants failed to
27 comply with the requirements of Section 11(B) of the IWC Wage Order(s) and Labor Code
28 section 226.7, subdivision (c), by failing to pay Plaintiff and members of the Meal Period Class

1 one additional hour of pay at each employee's regular rate of compensation for each workday that
2 a compliant meal period was not provided.

3 50. Therefore, Plaintiff and members of the Meal Period Class are entitled to damages
4 in an amount equal to one (1) additional hour of pay at each employee's regular rate of
5 compensation for each work day that a compliant meal period was not provided, in a sum to be
6 proven at trial.

7 51. Pursuant to Labor Code section 218.6 and Civil Code section 3287, Plaintiff,
8 individually, and on behalf of members of the Meal Period Class, seeks recovery of pre-judgment
9 interest on all amounts recovered herein.

10 52. Pursuant to Labor Code section 218.5, Plaintiff, individually, and on behalf of
11 members of the Meal Period Class, requests that the Court award reasonable attorneys' fees and
12 costs incurred in this action.

13 **SECOND CAUSE OF ACTION**

14 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

15 **(By Plaintiff, individually, and on behalf of the Rest Period Class against**
16 **Defendant Sanmina and DOES 1 to 100, inclusive)**

17 53. Plaintiff incorporates by reference and realleges each and every one of the
18 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
19 forth herein.

20 54. Labor Code section 226.7, subdivision (b), provides that "An employer shall not
21 require an employee to work during a meal or rest or recovery period mandated pursuant to an
22 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
23 Commission, the Occupational Safety and Health Standards Board, or the Division of
24 Occupational Safety and Health."

25 55. Labor Code section 516 provides that the Industrial Welfare Commission "may
26 adopt or amend working condition orders with respect to break periods, meal periods, and days of
27 rest for any workers in California consistent with the health and welfare of those workers."

28 56. Section 12(A) of the IWC Wage Order(s) provides that "Every employer shall

1 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the
2 middle of each work period. The authorized rest period time shall be based on the total hours
3 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
4 thereof. However, a rest period need not be authorized for employees whose total daily work time
5 is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours
6 worked for which there shall be no deduction from wages.”

7 57. Section 12(B) of the IWC Wage Order(s) provides that “If an employer fails to
8 provide an employee a rest period in accordance with the applicable provisions of this order, the
9 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
10 compensation for each workday that the rest period is not provided.”

11 58. Plaintiff and members of the Rest Period Class often worked over three and one-
12 half (3 1/2) hours per shift and therefore were entitled to a rest period of not less than ten (10)
13 minutes prior to exceeding four (4) hours of employment, and additional rest periods of not less
14 than ten (10) minutes per four (4) hours worked or major fraction thereof. Upon information and
15 belief, Defendants’ policies and practices failed and fail to provide Plaintiff and class members
16 with off-duty net rest periods of at least ten minutes for each four hours worked, or major fraction
17 thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays
18 Defendants failed to provide them with an opportunity to take rest periods.

19 59. As a matter of Defendants’ established company policy, Defendants failed to
20 authorize and permit required off-duty rest periods established by Labor Code sections 226.7 and
21 516 and Section 12 of the IWC Wage Order(s). Pursuant to *Augustus v. ABM Security Services,*
22 *Inc.*, (2017) 2 Cal.5th 257, 260, “[d]uring required rest periods, employers must relieve their
23 employees of all duties and relinquish any control over how employees spend their break time.”

24 60. Section 12 of the IWC Wage Order(s) and Labor Code section 226.7, subdivision
25 (b), provides that “If an employer fails to provide an employee a meal or rest or recovery period in
26 accordance with a state law, including, but not limited to, an applicable statute or applicable
27 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
28 Health Standards Board, or the Division of Occupational Safety and Health, the employer shall

1 pay the employee one additional hour of pay at the employee's regular rate of compensation for
2 each workday that the meal or rest or recovery period is not provided."

3 61. As a matter of Defendants' policies and procedures, Defendants failed to comply
4 with the requirements of Section 12(B) of the IWC Wage Order(s) and Labor Code section 226.7,
5 subdivision (c), by failing to pay Plaintiff and members of the Rest Period Class one additional
6 hour of pay at each employee's regular rate of compensation for each workday that an off-duty
7 rest period was not provided.

8 62. Therefore, pursuant to Section 12 of the IWC Wage Order(s) and Labor Code
9 section 226.7, Plaintiff and members of the Rest Period Class are entitled to damages in an amount
10 equal to one (1) additional hour of pay at each employee's regular rate of compensation for each
11 work day that a legally compliant rest period was not so provided.

12 63. Pursuant to Labor Code section 218.6 and Civil Code section 3287, Plaintiff,
13 individually, and on behalf of the Rest Period Class, seeks recovery of pre-judgment interest on all
14 amounts recovered herein.

15 64. Pursuant to Labor Code section 218.5, Plaintiff, individually, and on behalf of the
16 Rest Period Class, requests that the Court award reasonable attorneys' fees and costs incurred in
17 this action.

18 **THIRD CAUSE OF ACTION**

19 **FAILURE TO TIMELY FURNISH COMPLETE AND ACCURATE**
20 **ITEMIZED WAGE STATEMENTS**

21 **(By Plaintiff, individually, and on behalf of the Wage Statement Class against**
22 **Defendant Sanmina and DOES 1 to 100, inclusive)**

23 65. Plaintiff incorporates by reference and realleges each and every one of the
24 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
25 forth herein.

26 66. Labor Code section 226(a) states in pertinent part: "Every employer shall,
27 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
28 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
when wages are paid by personal check or cash, an accurate itemized statement in writing showing

1 (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net
2 wages earned, (6) the inclusive dates of the period for which the employee is paid... (8) the name
3 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
4 during each the pay period and the corresponding number of hours worked at each hourly rate by
5 the employee....”

6 67. As a pattern and practice, in violation of Labor Code section 226(a), Defendants
7 did not and still do not furnish each of the members of the Wage Statement Class with an accurate
8 itemized statement in writing correctly showing: (1) gross wages earned, (2) total hours worked by
9 the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and
10 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided
11 that all deductions made on written orders of the employee may be aggregated and shown as one
12 item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
13 the name of the employee and only the last four digits of his or her social security number or an
14 employee identification number other than a social security number, (8) the name and address of
15 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
16 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
17 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
18 corresponding number of hours worked at each hourly rate by the employee.

19 68. As a pattern and practice, in violation of Labor Code section 226(a) and Section 7,
20 subdivision (A), of the IWC Wage Order(s), Defendants did not and do not maintain accurate
21 records pertaining to the total hours worked for Defendants by Plaintiff and members of the Wage
22 Statement Class, including but not limited to, gross wages earned, total hours worked by the
23 employee, all deductions, net wages earned.

24 69. As of January 1, 2013, SB 1255 amended Labor Code section 226 to clarify that an
25 employee suffers injury if the employer fails to provide accurate and complete information as
26 required by any one or more items listed in Labor Code section 226(a)(1)-(9) and the employee
27 cannot promptly and easily ascertain requisite information without reference to other documents or
28 information.

1 70. Here, Plaintiff and members of the Wage Statement Class suffered injury because
2 Defendants failed to provide accurate and complete information as required by one or more items
3 listed in Labor Code section 226(a)(1)-(9) as set forth herein and Plaintiff and members of the
4 Wage Statement Class could not and cannot promptly and easily ascertain requisite information
5 without reference to other documents or information.

6 71. In addition, Plaintiff and members of the Wage Statement Class have suffered
7 injury as a result of Defendants' failure to maintain accurate records in that Plaintiff and members
8 of the Wage Statement Class were not provided written accurate itemized statements showing all
9 requisite information as set forth herein in violation of Labor Code section 226 and Section 7,
10 subdivision (A), of the IWC Wage Order(s), such that Plaintiff and members of the Wage
11 Statement Class were misled by Defendants as to the correct information regarding the various
12 items, including but not limited to, the total hours worked by the employee, gross wages earned,
13 net wages earned, all deductions, all applicable hourly rates in effect during the pay period and the
14 corresponding number of hours worked at each hourly rate.

15 72. The actual injuries suffered by Plaintiff and members of the Wage Statement Class
16 as a result of Defendants' knowing and intentional failure to maintain accurate records include but
17 are not limited to:

- 18 a. Confusion over whether they received all wages owed them by Defendants;
- 19 b. The difficulty and expense of attempting to reconstruct time and pay records;
- 20 c. Being forced to engage in mathematical computations to analyze whether
21 Defendants' wages in fact compensated for all hours worked;
- 22 d. The inability to accurately calculate wage rates complicated by the fact that
23 wage statement information required by Labor Code section 226 is missing;
- 24 e. That such practice prevents Plaintiff and members of the Classes from being
25 able to effectively challenge information on their wage statements; and/or
- 26 f. The difficulty and expense of filing and maintaining this lawsuit, and the
27 discovery required to collect and analyze the very information that California
28 law requires.

73. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and members of the Wage Statement Class are entitled to fifty dollars (\$50.00) per individual employee for the initial pay period in which a violation hereunder occurred and one hundred dollars (\$100.00) per individual employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000.00) per individual employee.

74. Pursuant to Labor Code section 226, subdivision (g), currently-employed members of the Wage Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor Code section 226.

75. Pursuant to Labor Code section 226, subdivisions (e) and/or (g), Plaintiff and members of the Wage Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

VIOLATIONS OF LABOR CODE §§ 201, 202, 203

(By Plaintiff, individually, and on behalf of the Classes against Defendant Sanmina and DOES 1 to 100, inclusive)

76. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

77. Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to thirty (30) days from the due date thereof, until paid or until an action therefore is commenced.

78. Defendants have a consistent and uniform policy, practice and procedure of willfully failing to pay the earned wages of Defendants' former employees according to amendment or proof.

79. Defendants willfully failed to pay Plaintiff and members of the Final Pay Class that are former employees their entire wages due and owing at the time of their termination or within

1 seventy-two (72) hours of their resignation, and failed to pay those sums for up to thirty (30) days
2 thereafter.

3 80. Defendants' willful failure to pay wages to Plaintiff and members of the Final Pay
4 Class that are former employees violates Labor Code section 203 because Defendants knew or
5 should have known such wages were due, but Defendants failed to pay them.

6 81. Thus, Plaintiff and members of the Final Pay Class are entitled to recovery
7 pursuant to Labor Code section 203.

8 **FIFTH CAUSE OF ACTION**

9 **UNFAIR BUSINESS PRACTICES**

10 **(By Plaintiff, individually, and on behalf of the Classes against**
11 **Defendant Sanmina and DOES 1 to 100, inclusive)**

12 82. Plaintiff incorporates by reference and realleges each and every one of the
13 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
14 forth herein.

15 83. Business & Professions Code section 17200 provides in pertinent part "unfair
16 competition shall mean and include any unlawful, unfair or fraudulent business act or practice."

17 84. Defendants are a "person" as defined under Business & Professions Code section
18 17201.

19 85. Business & Professions Code section 17204 provides that an action for any relief
20 from unfair competition may be prosecuted by any person who has suffered injury in fact and has
21 lost money or property as a result of such unfair competition.

22 86. Business & Professions Code section 17205 provides that unless otherwise
23 expressly provided, the remedies or penalties provided for unfair competition "are cumulative to
24 each other and to the remedies or penalties available under all other laws of this state."

25 87. Defendants have engaged in unlawful, unfair and fraudulent business acts or
26 practices prohibited by Business & Professions Code section 17200, including those set forth in
27 the preceding and foregoing paragraphs of the complaint, thereby depriving Plaintiff and members
28 of the Classes of the minimum working standards and conditions due to them under the Labor

1 Code and/or the IWC_Wage Orders, as specifically described herein.

2 88. Defendants have engaged in unfair business practices in California by practicing,
3 employing and utilizing the employment practices outlined in the preceding paragraphs,
4 specifically, by requiring employees to perform the labor services complained of herein without
5 the requisite compensation.

6 89. Defendants' use of such practices constitutes an unfair business practice, unfair
7 competition and provides an unfair advantage over Defendants' competitors.

8 90. Plaintiff and members of the Classes have suffered injury in fact and have lost
9 money or property as a result of such unfair competition.

10 91. Plaintiff, individually, and on behalf of members of the Classes, seeks full
11 restitution from Defendants, as necessary and according to proof, to restore any and all monies
12 withheld, acquired and/or converted by Defendants by means of the unfair practices complained of
13 herein.

14 92. Further, if Defendants are not enjoined from the conduct set forth above,
15 Defendants will continue to practice, employ and utilize the employment practices outlined in the
16 preceding paragraphs.

17 93. Therefore, Plaintiff requests that the Court issue a preliminary and permanent
18 injunction prohibiting Defendants from engaging in the foregoing conduct.

19 94. Plaintiff seeks the appointment of a receiver, as necessary, to establish the total
20 monetary relief sought from Defendant.

21 **SIXTH CAUSE OF ACTION**

22 **VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")**

23 **(By Plaintiff, an aggrieved employee of Defendants on behalf of the LWDA for all aggrieved**
24 **employees against Defendant Sanmina and DOES 1 to 100, inclusive)**

25 95. Plaintiff incorporates by reference and realleges each and every one of the
26 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
27 forth herein.

28 96. Pursuant to Labor Code section 2698, *et seq.*, Plaintiff seeks to recover all

1 applicable civil penalties and reasonable attorneys' fees and costs, permitted under PAGA through
2 a representative action on behalf of himself and all other aggrieved employees that work or
3 worked for Defendants during the relevant time period.

4 97. In accordance with *Arias v. Superior Court*, 46 Cal.4th 969 (2009), a representative
5 action is not subject to the formalities required of a class action and class certification of PAGA
6 claims is not required.

7 98. Plaintiff is an "aggrieved employee" within the meaning of Labor Code section
8 2699(c) because he was employed by Defendants during the applicable statutory period and
9 suffered one or more of the Labor Code violations, as alleged herein. Thus, Plaintiff is well suited
10 to represent the interests of all other aggrieved employees in in this PAGA representative action.

11 99. Pursuant to Labor Code section 2699(i), seventy-five percent (75%) of civil
12 penalties recovered by aggrieved employees shall be distributed to the Labor and Workforce
13 Development Agency (hereinafter "LWDA") for enforcement of labor laws and education of
14 employers and employees about their rights and responsibilities under this code, and twenty-five
15 percent (25%) shall be distributed to the aggrieved employees.

16 100. Plaintiff's representative action alleges violations of certain Labor Code sections
17 that are listed within Labor Code section 2699.5. Accordingly, Labor Code section 2699.3(a)
18 applies to this action, and Labor Code section 2699.3(b)-(c) do not apply.

19 101. On May 28, 2021, Plaintiff complied with Labor Code section 2699.3(a) by
20 electronically filing written notice with the LWDA and serving written notice, via certified mail,
21 upon the LWDA and Defendants regarding the specific provisions of the Labor Code alleged to
22 have been violated by Defendants and Plaintiff's intent to pursue civil penalties against
23 Defendants on behalf of himself and all other aggrieved employees pursuant to PAGA. Attached
24 hereto as **Exhibit A** is a true and correct copy of Plaintiff's notice letter.

25 102. Labor Code section 2699.3(a) provides in pertinent part that: "The agency shall
26 notify the employer and the aggrieved employee or representative by certified mail that it does not
27 intend to investigate the alleged violation within 60 calendar days of the postmark date of the
28 notice received... [u]pon receipt of that notice or if no notice is provided within 65 calendar days

1 of the postmark date of the notice given... the aggrieved employee may commence a civil action
2 pursuant to Section 2699.” More than sixty-five calendar days have passed since Plaintiff served
3 notice upon the LWDA and Defendants, and the LWDA did not provide notice of its intent to
4 investigate Plaintiff’s claims. Accordingly, Plaintiff exhausted his obligation to provide
5 administrative notice and is authorized to commence this representative action seeking civil
6 penalties on behalf of himself and all other aggrieved employees of Defendants.

7 103. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that
8 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
9 divisions, commissions, boards, agencies or employees for violation of the code may, as an
10 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
11 himself and other current or former employees pursuant to the procedures specified in Labor Code
12 section 2699.3.

13 104. Pursuant to Labor Code section 2699(f)(2), for all provisions of the Labor Code for
14 which a civil penalty is not specifically provided, there is established a civil penalty that imposes a
15 penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
16 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
17 subsequent violation.

18 105. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff, on behalf of himself and
19 aggrieved employees, seeks applicable civil penalties for violations of Labor Code sections 201,
20 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, and 1199 during the statutory period as set
21 forth below:

22 106. For violations of Labor Code section 201, 202, 203, 226.7, 510, 512, 1194, 1197
23 1198, and 1199, Labor Code section 2699(f)(2) imposes a civil penalty of one hundred dollars
24 (\$100) for each aggrieved employee per pay period for each initial violation and two hundred
25 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

26 107. For violations of Labor Code section 204, Labor Code section 210 imposes a civil
27 penalty of one hundred dollars (\$100) for each aggrieved employee for each initial violation that
28 was neither willful nor intentional, and two hundred dollars (\$200) for each aggrieved employee,

1 for each subsequent violation, regardless of whether the subsequent violation was willful or
2 intentional;

3 108. For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a
4 civil penalty, in addition to any other penalty provided by law, of two hundred fifty dollars (\$250)
5 per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
6 employee for each subsequent violation.

7 109. Defendants violated Labor Code sections 204, 510, 1194, 1197, and 1198 by not
8 paying Plaintiff and aggrieved employees all wages owed for all hours worked for each pay period
9 as a result of Defendants' policy or practice of failing to issue paychecks prior to payday for the
10 next regular payroll period. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are
11 subject to a civil penalty of one hundred dollars (\$100) for each aggrieved employee per pay
12 period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per
13 pay period for each subsequent violation.

14 110. Defendants violated Labor Code sections 226.7 and 512 by denying Plaintiff and
15 all other aggrieved employees an opportunity to take timely off-duty and uninterrupted thirty
16 minute meal periods for every five hours worked, including timely off-duty and uninterrupted
17 thirty minute long meal periods before the end of the fifth hour of work, and by failing to pay a
18 premium wage equivalent to an additional hour of pay at the regular rate of pay for each day a
19 compliant meal period was not provided. Thus, pursuant to Labor Code section 2699(f)(2),
20 Defendants are subject to a civil penalty of one hundred dollars (\$100) for each aggrieved
21 employee per pay period for the initial violation, and two hundred dollars (\$200) for each
22 aggrieved employee per pay period for each subsequent violation.

23 111. Defendants violated Labor Code section 226.7 by denying Plaintiff and all other
24 aggrieved employees of Defendants a ten minute off-duty rest period for every four hours worked,
25 or major fraction thereof, and by failing to provide a premium wage equivalent to an additional
26 hour of pay at the regular rate of pay for each workday that a compliant rest period was not
27 provided. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil
28 penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial

1 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
2 subsequent violation.

3 112. Defendants violated Labor Code section 226(a) by failing to provide Plaintiff and
4 aggrieved employees with accurate itemized wage statements correctly identifying, among other
5 things, the total hours worked, wages earned, the correct amount of net wages earned, and the
6 correct amount of deductions that were paid or should have been paid. Thus, pursuant to Labor
7 Code sections 226.3 and 2699(a), Defendants, in addition to, and entirely independent and apart
8 from any other penalty, are subject to a civil penalty for violation Labor Code section 226(a) in the
9 amount of two hundred and fifty dollars (\$250) per aggrieved employee per violation in an initial
10 citation and one thousand dollars (\$1,000) per aggrieved employee for each violation in a
11 subsequent citation.

12 113. Defendants violated Labor Code sections 201, 202, and 203 by willfully failing to
13 timely pay Plaintiff and aggrieved employees all wages owed upon separation of employment by
14 failing to pay all minimum wages, overtime compensation, and Defendants' failure to pay meal
15 and rest period premium wages owed. Thus, pursuant to Labor Code section 2699(f)(2),
16 Defendants are subject to a civil penalty of one hundred dollars (\$100) for each aggrieved
17 employee per pay period for the initial violation of these sections, and two hundred dollars (\$200)
18 for each aggrieved employee per pay period for each subsequent violation.

19 114. At all material times, Defendants were Plaintiff and all other aggrieved employees'
20 employers, or persons acting on their behalf, within the meaning of Labor Code section 558, who
21 violated or caused to be violated, a section of Part 2, Chapter 1 of the Labor Code or any provision
22 regulating hours and days of work in the applicable IWC Wage Order and, as such, are subject to
23 civil penalties for each underpaid employee as set forth in Labor Code section 558. The civil
24 penalties provided for under Labor Code section 558 are in addition to any other civil penalty
25 provided by law.

26 115. Pursuant to Labor Code sections 558 and 2699(a), Defendants are subject to a civil
27 penalty of fifty dollars (\$50) for each initial violation and one hundred dollars (\$100) for each
28 subsequent violation of Labor Code sections 510 and 1194 for each pay period for which Plaintiff

1 and all other aggrieved employees of Defendants were not paid all wages owed as a result of
2 Defendants' failure to pay wages owed for all overtime, as alleged herein.

3 116. Pursuant to Labor Code sections 558 and 2699(a), Defendants are subject to a civil
4 penalty of fifty dollars (\$50) for each initial violation and one hundred dollars (\$100) for each
5 subsequent violation of Labor Code section 226.7 for each pay period for which Plaintiff and all
6 other aggrieved employees of Defendants were not provided with a compliant timely off-duty and
7 uninterrupted thirty minute meal period and/or ten minute long rest periods for every four hours
8 worked, or major fraction thereof, as alleged herein.

9 117. Defendants violated Labor Code section 1198 by failing to comply with the
10 maximum hours of work and the standards conditions of labor fixed by the IWC under the "Hours
11 and Days of Work", the "Meal Period", the "Rest Period" and "Record" sections of the applicable
12 IWC Wage Order, by failing to provide compliant meal periods, failing to pay meal periods
13 premium wages, failing to provide compliant rest periods, failing to pay rest period premium
14 wages, failing to keep and provide accurate records, and failing to timely pay owed wages upon
15 separation of employment, as alleged herein. Thus pursuant to Labor Code section 2699(f)(2),
16 Defendants are subject to a civil penalty in the amount of one hundred dollars (\$100) for each
17 aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for
18 each aggrieved employee per pay period for each subsequent violation.

19 **VII. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays:

21 That the Court issue an Order certifying the Classes herein, appointing Plaintiff as
22 representative of all others similarly situated, and appointing the law firm representing Plaintiff as
23 counsel for the members of the Classes;

24 As to the First Cause of Action for Failure to Provide Meal Periods:

25 a. For one (1) hour of pay at the regular rate of compensation for each member of the
26 Meal Period Class for each workday that a full meal period was not provided;

27 b. For pre-judgment interest as authorized by Labor Code section 218.6 and Civil
28 Code section 3287;

c. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 218.5.

As to the Second Cause of Action for Failure to Provide Rest Periods:

d. For one (1) hour of pay at the regular rate of compensation for each member of the Rest Period Class for each workday that a full rest period was not provided;

e. For pre-judgment interest as authorized by Labor Code section 218.6 and Civil Code section 3287;

f. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 218.5.

As to the Third Cause of Action for Failure to Provide Complete and Accurate Itemized Wage Statements:

g. For recovery as authorized by Labor Code section 226(e);

h. For an award of costs and reasonable attorneys' fees pursuant to Labor Code section 226, subdivision (e) and/or subdivision (g);

As to the Fourth Cause of Action for Violations of Labor Code section 203:

i. For recovery as authorized by Labor Code section 203;

As to the Fifth Cause of Action for Unfair Business Practices:

j. For an accounting, under administration of Plaintiff and/or the receiver and subject to Court review, to determine the amount to be returned by Defendants, and the amounts to be refunded to members of the Classes who are owed monies by Defendants;

k. For an Order requiring Defendants to identify each of the members Classes by name, home address, and home telephone number;

l. For an Order requiring Defendants to make full restitution and payment pursuant to California law;

m. For the creation of an administrative process wherein each injured member of the Classes may submit a claim in order to receive his/her money;

n. For all other appropriate injunctive, declaratory and equitable relief;

o. For interest to the extent permitted by law;

p. For an award of attorneys' fees and costs incurred in the investigation, filing and prosecution of this action pursuant to Code of Civil Procedure section 1021.5, Business & Professions Code section 17200, *et seq.*, Labor Code section 1194 and/or any other applicable provision of law.

As to the Sixth Cause of Action for Violation of PAGA:

q. For all civil penalties authorized by Labor Code section 2698, *et seq.*;

r. For civil penalties under Labor Code section 226.3 in the amount two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation;

s. For civil penalties under Labor Code section 210 in the amount of one hundred dollars (\$100.00) for each aggrieved employee for each initial violation that was neither willful nor intentional, and two hundred dollars (\$200.00) for each aggrieved employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each aggrieved employee, for each subsequent violation, regardless of whether the subsequent violation was willful or intentional;

t. For civil penalties under Labor Code section 2699(f), for Labor Code violations without a specific civil penalty, in the amount of one hundred dollars (\$100.00) for each aggrieved employee per pay period for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation;

u. For civil penalties under Labor Code section 558, as follows: (1) for an initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid; and (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid;

v. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1), or other applicable laws, and pre-judgment and post-judgment interest as provided by law;

As to All Causes of Action:

w. For such relief as this Court may deem just and proper, including reasonable attorneys' fees and costs incurred.

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DATED: August 9, 2021

BOUCHER LLP

By: 

RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
ALEXANDER GAMEZ

Attorneys for Plaintiff Raul Espinoza

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims alleged in Plaintiff's Complaint to the fullest extent authorized by law.

DATED: August 9, 2021

Respectfully submitted,

BOUCHER LLP

By:



RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
ALEXANDER GAMEZ

Attorneys for Plaintiff Raul Espinoza

EXHIBIT A

BOUCHER LLP

21600 Oxnard Street, Suite 600
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Telephone 818.340.5400
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May 28, 2021

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL

Sanmina Corporation
c/o Agent for Service of Process
Kevin Silva (Corporation Service Company)
2091 E Grant Line Rd.
Tracy, CA 95376

Sanmina Corporation
2700 N First St
San Jose, CA 95134

Re: *Espinoza v. Sanmina Corp., et al.*
Notice Regarding Private Attorneys General Act of 2004 Claim

To Whom It May Concern:

Pursuant to section 2699.3 of the California Labor Code Private Attorneys General Act of 2004 (“PAGA” or “the Act”) (Lab. Code § 2698 *et seq.*), this letter shall serve as written notice of claims for civil penalties that will be pursued by Mr. Raul Espinoza as proxy for the Labor and Workforce Development Agency (“LWDA”) on behalf of all non-exempt aggrieved employees employed by Sanmina Corporation (“Sanmina”) in California during the statutory period, against Sanmina.

Sanmina is an electronics manufacturing services provider headquartered in San Jose, California. Mr. Espinoza was employed as a non-exempt welder at Sanmina’s Fremont, California location in from approximately October 25, 2020 through February of 2021. Pursuant to California law, Sanmina has at all relevant times been Mr. Espinoza’s employer during the statutory period.

In his representative action, Mr. Espinoza will seek civil penalties pursuant to PAGA as a result of Sanmina's failure to: (1) compensate for all hours worked (Lab. Code §§ 204, 1194, 1197, 1198); (2) provide proper meal periods and/or premium pay for non-compliant meal periods (Lab. Code §§ 226.7, 512, 558, 1198, 1199); (3) provide proper rest periods and/or premium pay for non-compliant rest periods (Lab. Code §§ 226.7, 558, 1197, 1198, 1199); (4) furnish complete and accurate itemized wage statements (Lab. Code § 226(a)); and (5) timely pay all wages due within the time permitted upon separation of employment (Lab. Code §§ 201-203).

FAILURE TO PAY HOURLY AND OVERTIME WAGES

(Labor Code §§ 204, 510, 1194, 1197, 1198, and 2699)

Labor Code section 204 states that "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period."

Pursuant to Labor Code section 510, non-exempt employees are entitled to 1.5 times their hourly rate of pay for any work performed in excess of 8 hours in a day or any work performed in excess of 40 hours per week, and twice their regular hourly rate for any work performed past 12 hours in one day or past 8 hours on the seventh consecutive day.

Labor Code section 1194(a) states, "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Labor Code section 1197 states, in pertinent part, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful."

Labor Code section 1198 states, in pertinent part, "The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

In relevant part, Section 4 of the applicable Wage Order states that, "Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise."

Upon information and belief, during Mr. Espinoza's employment, Sanmina failed and fails to compensate him and aggrieved employees for all hours worked and overtime hours worked after eight hours in a day and/or after forty hours in a week. Further, upon information and belief, Sanmina routinely failed to provide Mr. Espinoza with his paychecks prior to payday for the next regular payroll period, resulting in Mr. Espinoza being regularly paid weeks late.

Accordingly, Mr. Espinoza, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512(a), 558, 1198, 2699, and the "Meal Periods" Section of the
Applicable Wage Order)

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a meal period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Labor Code section 512(a) states, in pertinent part, "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes... [a]n employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived."

Labor Code section 1198 states, in pertinent part, "The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

Section 11 of the applicable Wage Order provides that:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be

waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on-duty” meal period and counted as time worked. An “on-duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

- (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employer’s regular rate of compensation for each workday that the meal period is not provided.

Upon information and belief, Sanmina failed and fails to provide Mr. Espinoza and aggrieved employees with compliant thirty minute off-duty meal periods for work periods and failed to pay them premium wages at their regular rates of pay thereto. Sanmina required Mr. Espinoza and other aggrieved employees to remain on-site through all meal breaks. Sanmina compounds this issue by failing to reflect, display or record the timing of non-exempt employees’ meal periods on their timesheets. Due to the fact that Mr. Espinoza’s time sheets, as furnished by Sanmina, fail to note or reflect in any capacity the timing of meal breaks, there is an informed presumption of meal period violations. See *Donahue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 77.

Accordingly, Mr. Espinoza, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE REST PERIODS

(Labor Code §§ 226.7, 1197, 1198, 2699, and the “Rest Periods” Section of the Applicable Wage Order)

Labor Code section 1198 states, in pertinent part, “The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code section 226.7(b) states, in pertinent part, “An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission.”

Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, “[d]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.”

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a rest period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Section 12 of the applicable Wage Order provides that:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensations for each workday that the rest period is not provided.

Upon information and belief, Sanmina's policies and practices failed and fails to provide Mr. Espinoza and aggrieved employees with off-duty rest periods of at least ten minutes for each four hour work period, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays they failed to provide them with an opportunity to take rest periods. Mr. Espinoza and other employees typically worked and work eight hours per day, and Sanmina's policies and practices routinely prevented and prevent them from taking the off-duty ten-minute rest breaks they are entitled to by making Mr. Espinoza and other aggrieved employees either miss their rest periods altogether, work through their rest periods, take untimely rest periods, or take shortened rest periods. For example, upon information and belief, Mr. Espinoza and other aggrieved employees were consistently prevented by their supervisors from taking the second ten-minute rest break they were entitled to, in compliance with the Labor Code.

Accordingly, Mr. Espinoza, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226, 226.3, and 2699)

Labor Code section 226(a) requires an employer to provide an employee with an accurate itemized wage statement that shows: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is pay; (7) the name of the employee and the last four

digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate by the employee.

For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty on any employer that violates section 226(a) in the amount of \$250.00 per employee per violation in an initial citation and \$1,000.00 per employee for each subsequent violation. The civil penalties provided for in Labor Code section 226.3 are in addition to any other penalty provided by law.

Mr. Espinoza and aggrieved employees were and continue to be furnished with inaccurate itemized wage statements during the statutory period. As a result of the alleged violations discussed above, Sanmina furnished wage statements that failed to correctly show, among other items: (1) gross wages earned, (2) all deductions, and (3) net wages earned. Accordingly, Mr. Espinoza on behalf of himself and other aggrieved employees, will seek to recover available civil penalties for violations of Labor Code 226(a).

FAILURE TO TIMELY PAY WAGES UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 2699)

Labor Code section 201 states, in pertinent part, “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

Labor Code section 202 states, in pertinent part, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203 provides that an employee’s wages shall continue as a penalty from when they first become due at the same rate until paid for up to 30 days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section 201 or 202.

Upon information and belief, Sanmina willfully failed and fails to provide aggrieved employees all wages due and owed upon separation of employment. By furnishing aggrieved employees with a final check that failed to include all earned and owed wages and meal and rest period premiums – as described above, Sanmina violated Labor Code sections 201 or 202. Additionally, upon information and belief, Sanmina failed to provide Mr. Espinoza with his final paycheck in a timely manner. Despite Mr. Espinoza’s employment concluding on or around February 14, 2021, he did not receive his final paycheck until in or around March of 2021.

Accordingly, Mr. Espinoza on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

**CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE
ORDERS**
(Labor Code § 558)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days in any IWC Wage Order, to a civil penalty in the amount of \$50 for any initial violation for each pay period in which an employee is underpaid, and \$100 for each subsequent violation.

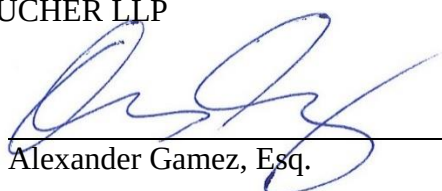
As set forth above, Sanmina failed to provide Mr. Espinoza and aggrieved employees compliant meal periods and/or rest periods and failed to pay premium wages owed. Accordingly, Mr. Espinoza, on behalf of aggrieved employees, will seek to recover civil penalties under Labor Code section 558.

CONCLUSION

The allegations set forth herein are supported by, among other things, records and documents from Mr. Espinoza's employment with Sanmina, including timesheets, earning statements, and Mr. Espinoza's confirmation of Sanmina's unlawful practices and policies. As a result of the foregoing violations, Mr. Espinoza is entitled to file a Complaint and invoke the protections of the Act. Mr. Espinoza has placed Sanmina on notice by mailing a certified copy of this notice to its corporate headquarters and/or authorized agents.

Very truly yours,

BOUCHER LLP

By: 

Alexander Gamez, Esq.

PROOF OF SERVICE

Espinoza v. Sanmina Corporation
Case No. 21CV382662

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 21600 Oxnard Street, Suite 600, Woodland Hills, CA 91367-4903.

On August 9, 2021, I served true copies of the following document(s) described as **FIRST AMENDED COMPLAINT** on the interested parties in this action as follows:

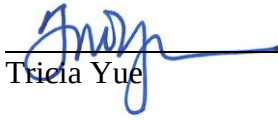
Sanmina Corporation
c/o Registered Agent
CSC Layers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Registered Agent for Sanmina Corporation

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Boucher LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Woodland Hills, California.

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

Executed on August 9, 2021, at Woodland Hills, California.


Tricia Yue