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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF VENTURA**

14 DORIAN HOOD, on behalf of the State
15 of California, as a private attorney
16 general,

17 Plaintiff,

18 vs.

19 YARDI SYSTEMS, INC., a Corporation;
20 and DOES 1 through 50, inclusive,

21 Defendants.

Case No. 56-2021-00558324-CU-OE-VTA

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code §
2699, *et seq.* for violations of Labor Code
§§ 201, 202, 203, 204 *et seq.*, 210, 221,
226(a), 226.7, 227.3, 351, 510, 512,
558(a)(1)(2), 1194, 1197, 1197.1, 1198,
2802, California Code of Regulations,
Title 8, Section 11040, Subdivision 5(A)-
(B)

By FAX

VENTURA
SUPERIOR COURT
FILED

SEP 23 2021

BRENDA L. McCORMICK
Executive Officer and Clerk
By: IVONNE PEACOCK Deputy

1 Plaintiff Dorian Hood (“PLAINTIFF”) on behalf of the people of the State of California
2 and as an “aggrieved employee” acting as a private attorney general under the Labor Code
3 Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on information
4 and belief, except for his own acts and knowledge which are based on personal knowledge, the
5 following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against Defendant Yardi Systems, Inc.
8 (“DEFENDANT”) seeking only to recover PAGA civil penalties for himself, and on behalf of
9 all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF does
10 **not seek to recover anything other than penalties as permitted by California Labor Code**
11 **§ 2699**. To the extent that statutory violations are mentioned for wage violations, PLAINTIFF
12 does not seek underlying general and/or special damages for those violations, but simply the
13 civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit an individual to bring an action on
15 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
16 nature of this action.

17 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
18 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
20 complaint should be construed as attempting to obtain any relief that would not be available in
21 a PAGA-only action.

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THE PARTIES

4. Defendant Yardi Systems, Inc. ("DEFENDANT") is a corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California.

5. DEFENDANT develops property and asset management software for clients in the real estate industry.

6. PLAINTIFF was employed by DEFENDANT from September of 2019 to May 24, 2021 and was at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

7. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, brings this Representative Action on behalf of the State of California with respect to himself and all individuals who are or previously were employed by DEFENDANT in California and who were classified as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period of July 1, 2020 until a date as determined by the Court (the "PAGA PERIOD").

8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

9. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant

1 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
2 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
3 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
4 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
5 responsible in some manner for one or more of the events and happenings that proximately
6 caused the injuries and damages hereinafter alleged.

7 10. The agents, servants and/or employees of the Defendants and each of them acting
8 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
9 agent, servant and/or employee of the Defendants, and personally participated in the conduct
10 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
11 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
12 all Defendants are jointly and severally liable to PLAINTIFF and the other AGGRIEVED
13 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
14 agents, servants and/or employees.

15 THE CONDUCT

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17 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT is
18 required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time worked,
19 meaning the time during which an employee is subject to the control of an employer, including
20 all the time the employee is suffered or permitted to work. DEFENDANT required PLAINTIFF
21 and the AGGRIEVED EMPLOYEES to work from time to time while they were clocked out
22 for what was supposed to be their off duty meal break. DEFENDANT required PLAINTIFF
23 and the AGGRIEVED EMPLOYEES to work off the clock without paying them for all the time
24 they performed duties while on their meal break, specifically by failing to provide enough labor
25 hours to accomplish all the job tasks that DEFENDANT expected PLAINTIFF and the
26 AGGRIEVED EMPLOYEES to complete on a daily and/or weekly basis. PLAINTIFF and the
27 AGGRIEVED EMPLOYEES also worked off the clock with respect to time spent undergoing
28 mandatory drug testing or any other testing and/or examination required as a condition of

1 employment. Further, PLAINTIFF and the other AGGRIEVED EMPLOYEES from time to
2 time were not paid wages for all time worked, including overtime wages, such that in the
3 aggregate employees were underpaid wages as a result of DEFENDANT's pattern and practice
4 of unevenly rounding time worked by its employees. As a result, PLAINTIFF and the other
5 AGGRIEVED EMPLOYEES forfeited minimum wage and overtime compensation by from
6 time to time working without their time being accurately recorded and without compensation
7 at the applicable minimum wage and overtime rates. DEFENDANT's policy and practice not
8 to pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for all time worked is evidenced
9 by DEFENDANT's business records.

10 12. As a result of their rigorous work schedules, PLAINTIFF and the other
11 AGGRIEVED EMPLOYEES were also from time to time unable to take off duty meal breaks
12 and were not fully relieved of duty for meal periods. PLAINTIFF and the other AGGRIEVED
13 EMPLOYEES were from time to time required to perform work as ordered by DEFENDANT
14 for more than five (5) hours during a shift without receiving an off-duty meal break. Further,
15 DEFENDANT failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES with a
16 second off-duty meal period from time to time in which these employees were required by
17 DEFENDANT to work ten (10) hours of work from time to time. PLAINTIFF and the other
18 AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation
19 and in accordance with DEFENDANT's corporate policy and practice.

20 13. During the PAGA PERIOD, PLAINTIFF and the other AGGRIEVED
21 EMPLOYEES were also required from time to time to work in excess of four (4) hours without
22 being provided ten (10) minute rest periods. Further, these employees were denied their first
23 rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
24 hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts
25 worked of between six (6) and eight (8) hours from time to time, and a first, second and third
26 rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
27 time to time. PLAINTIFF and the other AGGRIEVED EMPLOYEES were also not provided
28 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF

1 and the other AGGRIEVED EMPLOYEES were from time to time denied their proper rest
2 periods by DEFENDANT and DEFENDANT's managers. Additionally, the applicable
3 California Wage Order requires employers to provide employees with off-duty rest periods,
4 which the California Supreme Court defined as time during which an employee is relieved from
5 all work related duties and free from employer control. In so doing, the Court held that the
6 requirement under California law that employers authorize and permit all employees to take rest
7 periods means that employers must relieve employees of all duties and relinquish control over
8 how employees spend their time which includes control over the locations where employees
9 may take their rest period. Employers cannot impose controls that prohibit an employee from
10 taking a brief walk - five minutes out, five minutes back. Here, DEFENDANT's policy restricts
11 PLAINTIFF and the other AGGRIEVED EMPLOYEES from unconstrained walks and is
12 unlawful based on DEFENDANT's rule which states PLAINTIFF and the AGGRIEVED
13 EMPLOYEES cannot leave the work premises during their rest period.

14 14. State law provides that employees must be paid overtime and meal and rest break
15 premium pay at one-and-one-half times their "regular rate of pay." PLAINTIFF and the other
16 AGGRIEVED EMPLOYEES were compensated at an hourly rate plus incentive pay that was
17 tied to specific elements of an employee's performance.

18 15. The second component of PLAINTIFF's and other AGGRIEVED EMPLOYEES'
19 compensation was DEFENDANT's non-discretionary incentive program that paid PLAINTIFF
20 and the other AGGRIEVED EMPLOYEES incentive wages based on their performance for
21 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
22 hourly basis with incentive compensation when the employees met the various performance
23 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
24 overtime and premiums for meal and rest break violations to PLAINTIFF and the other
25 AGGRIEVED EMPLOYEES, DEFENDANT failed to include the incentive compensation as
26 part of the employees' "regular rate of pay" for purposes of calculating overtime pay and
27 premium pay for meal and rest break violations. Management and supervisors described the
28 incentive program to potential and new employees as part of the compensation package. As a

1 matter of law, the incentive compensation received by PLAINTIFF and the other AGGRIEVED
2 EMPLOYEES must be included in the “regular rate of pay.” The failure to do so has resulted
3 in an underpayment of overtime compensation and meal and rest break premium pay to
4 PLAINTIFF and the other AGGRIEVED EMPLOYEES by DEFENDANT.

5 16. DEFENDANT also failed to provide PLAINTIFF and the other AGGRIEVED
6 EMPLOYEES with complete and accurate wage statements which failed to show, among other
7 things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that every
8 employer shall furnish each of his or her employees with an accurate itemized wage statement
9 in writing showing, among other things, gross wages earned and all applicable hourly rates in
10 effect during the pay period and the corresponding amount of time worked at each hourly rate.
11 Aside, from the violations listed above, DEFENDANT failed to issue to PLAINTIFF an
12 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
13 As a result, DEFENDANT from time to time provided PLAINTIFF and the other AGGRIEVED
14 EMPLOYEES with wage statements which violated Cal. Lab. Code § 226.

15 17. Cal. Lab. Code § 204 provides that “[a]ll wages. . . earned by any person in any
16 employment are due and payable twice during each calendar month, on days designated in
17 advance by the employer as the regular paydays.” Further, Cal. Lab. Code § 204(d) expressly
18 requires employers to pay employees all wages owed within seven (7) days of the close of the
19 payroll period. DEFENDANT from time to time failed to pay PLAINTIFF and the other
20 AGGRIEVED EMPLOYEES all wages owed to them within seven (7) days of the close of the
21 payroll period, including but not limited to for the “Gross Up Pay” wage payments.

22 18. Pursuant to Cal. Lab. Code Section 221, “It shall be unlawful for any employer
23 to collect or receive from an employee any part of wages theretofore paid by said employer to
24 said employee.” DEFENDANT failed to pay all compensation due to PLAINTIFF and the other
25 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to
26 PLAINTIFF and the other AGGRIEVED EMPLOYEES, failed to disclose all aspects of the
27 deductions from compensation payable to PLAINTIFF and the other AGGRIEVED
28 EMPLOYEES, and thereby failed to pay these employees all wages due at each applicable pay

1 period and upon termination.

2 19. DEFENDANT underpaid sick pay wages to PLAINTIFF and the AGGRIEVED
3 EMPLOYEES by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
4 Code Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-
5 discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT
6 underpaid sick pay to PLAINTIFF and other AGGRIEVED EMPLOYEES at their base rates
7 of pay.

8 20. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
9 employees be calculated by dividing the employee's total wages, not including overtime
10 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
11 of employment.

12 21. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at
13 the regular rate of pay. PLAINTIFF and the AGGRIEVED EMPLOYEES routinely earned non-
14 discretionary incentive wages which increased their regular rate of pay. However, when sick pay
15 was paid, it was paid at the base rate of pay for PLAINTIFF and the AGGRIEVED
16 EMPLOYEES, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab.
17 Code Section 246.

18 22. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and
19 the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time
20 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and
21 believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,
22 such that PLAINTIFF and the AGGRIEVED EMPLOYEES whose employment has separated
23 are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

24 23. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
25 PLAINTIFF and the other AGGRIEVED EMPLOYEES for required business expenses
26 incurred by PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of
27 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
28 2802, employers are required to indemnify employees for all expenses incurred in the course

1 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
2 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
3 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
4 directions of the employer, even though unlawful, unless the employee, at the time of obeying
5 the directions, believed them to be unlawful."

6 24. In the course of their employment PLAINTIFF and other AGGRIEVED
7 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal
8 cellular phones as a result of and in furtherance of their job duties as employees for
9 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
10 associated with the use of their personal cellular phones and personal home offices for
11 DEFENDANT's benefit. Specifically, PLAINTIFF and other AGGRIEVED EMPLOYEES
12 were required by DEFENDANT to use their personal cellular phones to respond to managers
13 while off the clock (which also results in minimum wage and overtime violations). As a result,
14 in the course of their employment with DEFENDANT, PLAINTIFF and other AGGRIEVED
15 EMPLOYEES incurred unreimbursed business expenses which included, but were not limited
16 to, costs related to the use of their personal cellular phones and home offices all on behalf of
17 and for the benefit of DEFENDANT.

18 25. In violation of the applicable sections of the California Labor Code and the
19 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as
20 a matter of company policy, practice and procedure, intentionally and knowingly failed to
21 compensate PLAINTIFF and the other AGGRIEVED EMPLOYEES for missed meal and rest
22 periods. This policy and practice of DEFENDANT is intended to purposefully avoid the
23 payment for all time worked as required by California law which allows DEFENDANT to
24 illegally profit and gain an unfair advantage over competitors who complied with the law. To
25 the extent equitable tolling operates to toll claims by the AGGRIEVED EMPLOYEES against
26 DEFENDANT, the PAGA PERIOD should be adjusted accordingly.

27 26. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
28 EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which fails

1 to accurately calculate and record all missed meal and rest periods and failed to pay all
2 minimum and overtime wages due to PLAINTIFF and the other AGGRIEVED EMPLOYEES.
3 The proper recording of these employees' missed meal and rest breaks is the DEFENDANT's
4 burden. As a result of DEFENDANT's intentional disregard of the obligation to meet this
5 burden, DEFENDANT fails to properly calculate and/or pay all required compensation for work
6 performed by the AGGRIEVED EMPLOYEES and violated the California Labor Code and
7 regulations promulgated thereunder as herein alleged.

8 27. All of the conduct and violations alleged herein occurred during the PAGA
9 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
10 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
11 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
12 AJDAR 12157 (Certified for Publication 12/19/18).

13 14 **JURISDICTION AND VENUE**

15 28. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure, Section 410.10.

17 29. Venue is proper in this Court pursuant to California Code of Civil Procedure,
18 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides
19 in this County, and DEFENDANT (i) currently maintains and at all relevant times maintained
20 offices and facilities in this County and/or conducts substantial business in this County, and (ii)
21 committed the wrongful conduct herein alleged in this County against PLAINTIFF and the
22 AGGRIEVED EMPLOYEES.

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1 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
2 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

3 34. The policies, acts and practices heretofore described were and are an unlawful
4 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
5 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
6 record and provide legally required meal and rest periods, (c) failed to pay minimum wages,
7 (d) failed to pay overtime and sick pay wages, (e) failed to reimburse employees for required
8 expenses, and (f) failed to provide wages when due, all in violation of the applicable Labor
9 Code sections listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7,
10 227.3, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of
11 Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage
12 Order(s), and thereby gives rise to civil penalties as a result of such conduct.¹ PLAINTIFF
13 hereby seeks recovery of only civil penalties as prescribed by the Labor Code Private
14 Attorney General Act of 2004 as the representative of the State of California for the illegal
15 conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

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17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
19 severally, as follows:

20 1. On behalf of the State of California and with respect to all AGGRIEVED
21 EMPLOYEES:

22 A) Recovery of civil penalties as prescribed by the Labor Code Private
23 Attorneys General Act of 2004; and,

24 B) An award of attorneys' fees and cost of suit, as allowable under the

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28 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
Code §558(a)(3).

1 law, including, but not limited to, pursuant to Labor Code §2699.

2 Dated: September 16, 2021

3 BLUMENTHAL NORDREHAUG BHOWMIK DE
4 BLOUW LLP

5 By: 
6 Norman B. Blumenthal
7 Attorneys for Plaintiff