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Per local Rule, This case is assigned to
Judge Weil, Edward G, for all purposes.

SUMMONS ISSUED

Attorneys for Plaintiff

JOSE OLIVERA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA C22-01585

JOSE OLIVERA, individually and as a private
attorney general;

Plaintiff,

vs.

SILICON VALLEY SECURITY & PATROL,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

COMPLAINT FOR:

**(1) PRIVATE ATTORNEY
GENERAL ACT, LABOR CODE
§2698 ET SEQ**

DEMAND FOR TRIAL BY JURY

1 Plaintiff JOSE OLIVERA (“Plaintiff”), as an individual, and as a private attorney general
2 alleges as follows:

3 **THE PARTIES, JURISDICTION AND VENUE**

4 1. Plaintiff is, and at all relevant times mentioned herein was, a resident of the County of
5 San Jose, State of California.

6 2. Defendant SILICON VALLEY SECURITY & PATROL, INC (“Silicon Valley
7 Security”) is, and at all times mentioned herein was, a limited liability company organized and
8 existing under the laws of the State of California, doing business in the County of Contra Costa,
9 California.

10 3. Silicon Valley Security at all times herein mentioned was, (a) conducting business in
11 the County of Contra Costa, State of California; (b) the employer of Plaintiff consistent with
12 California Labor Code and Industrial Welfare Commission Wage Orders; and (c) Plaintiff’s
13 employer as defined under Government Code section 12926 subsection (c).

14 4. The acts alleged herein arose in Contra Costa County, within the State of California.

15 5. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and
16 therefore sues these defendants by such fictitious names. The Doe defendants may be individuals,
17 partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that at all
18 times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant,
19 employee, co-venturer, and/or co-conspirator of each of the other defendants and was at all times
20 mentioned, acting within the scope, purpose, consent, knowledge, ratification and authorization of
21 such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to
22 allege their true names and capacities when ascertained. Plaintiff is informed and believes and
23 thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner
24 for the occurrences herein alleged, and that Plaintiff’s damages as herein alleged was proximately
25 caused by its conduct. Doe Defendants 1 through 50, and Silicon Valley Security are herein
26 collectively referred to as “Defendants.”
27
28

GENERAL ALLEGATIONS

6. Plaintiff was employed by Defendants from approximately January 2022 through the present in California as a security guard.

7. Plaintiff was scheduled to work at least five days per week and required to work at least eight (8) hours per day and sometimes in excess of twelve (12) hours per day.

8. Plaintiff's responsibilities included in part as security guard for Defendants' various clients.

9. Plaintiff and similarly aggrieved current and former non-exempt employees ("Aggrieved Employees") were required to regularly work more than five (5) hours without being provided a meal period and to work more than ten (10) hours without being provided with a second meal period. In fact, Plaintiff was reprimanded for taking or attempting to take an uninterrupted 30-minute meal period. Further, Defendants forced Plaintiff and Aggrieved employees to take their lunch after six (6) hours of working.

10. Plaintiff and Aggrieved Employees never waived their rights to a meal period when they worked six (6) or more hours.

11. Plaintiff and Aggrieved Employees never received a second lunch period.

12. Plaintiff and Aggrieved Employees never received payment of one (1) additional hour of pay at their regular rate of pay when a meal period was missed or interrupted.

13. Because of Defendants' policies and practices, Plaintiff and Aggrieved Employees were never able to take an uninterrupted ten (10) minute rest break and Plaintiff was reprimanded every time she asked for one or attempted to take one.

14. Plaintiff and Aggrieved Employees never received payment of one (1) additional hour of pay at their regular rate of pay when a rest break was missed or interrupted.

15. Furthermore, Defendants often requested Plaintiff and Aggrieved Employees to work prior to clocking-in or to keep working after they clocked-out for the day to finish their assigned work. Defendants failed to pay Plaintiff and Aggrieved Employees for time worked off the clock prior to and at the end of their respective shifts.

16. Plaintiff and Aggrieved Employees regularly worked more than eight (8) hours in a

day, and/or forty (40) hours in a week during their employment with Defendants.

17. Plaintiff and Aggrieved Employees incurred business expenses in the discharge of their duties for Defendants and in obedience to Defendants' instructions, which includes the use of their personal cell phones. Plaintiff merely received a nominal reimbursement of three cents (\$.03) per hour worked.

18. Plaintiff and Aggrieved Employees did not receive payment of all wages, including overtime and minimum wages and meal and rest period premiums, within any time permissible under California Labor Code section 204.

19. Plaintiff and Aggrieved Employees were entitled to receive complete and accurate wage statements in accordance with California law, but, in fact, they did not receive complete and accurate wage statements from Defendants. The deficiencies included, inter alia, the failure to include the legal entity on the wage statement, failure to include the total number of hours worked by Plaintiff and Aggrieved Employees and the failure to include premium pay for missed and/or interrupted rest and meal breaks.

20. On numerous occasions, Plaintiff requested that his supervisors provide him with a ten (10) minute uninterrupted rest break and/or a thirty (30) minute uninterrupted meal period, and an accurate wage statement due to missing wages, however such requests were denied and met with hostile retaliation.

21. Moreover, since counsel for Plaintiff requested Plaintiff's Personnel File on March 10, 2022, Defendant further retaliated against Plaintiff by refusing to provide Plaintiff with further work, although Plaintiff has yet to be officially terminated.

22. On or about April 14, 2022, Plaintiff notified Defendants via certified mail and filed an online PAGA claim notice with the California Labor and Workforce Development Agency ("LWDA") identifying Defendants' violations of the California Labor Code identified in this Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code section 2698 et seq.

FIRST CAUSE OF ACTION
(Violation of Labor Code § 2698, et seq.)

(Against All Defendants)

23. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

24. Plaintiff brings this claim as an individual employee and in her capacity as a private attorney general pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq. ("PAGA").

25. On or about April 14, 2022, Plaintiff notified Defendants via certified mail and filed an online PAGA claim notice with the California Labor and Workforce Development Agency ("LWDA") identifying Defendants' violations of the California Labor Code identified in this Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code section 2698 et seq. The LWDA assigned Plaintiff's case number LWDA-CM-878699-22. Plaintiff also submitted a filing fee of seventy-five (\$75.00) to the LWDA in accordance with Labor Code section 2699.3(a)(1)(B). Sixty-five days have passed from the date of Plaintiff's notice to the LWDA, and thus Plaintiff has exhausted her administrative remedies, thereby allowing Plaintiff to commence a civil action against Defendants pursuant to Labor Code section 2699.

26. During all relevant times for this action, Defendants regularly required Plaintiff and Aggrieved Employees to work more than eight (8) hours per day and forty (40) hours per week. However, Plaintiff and Aggrieved Employees were not paid wages, including minimum wages and/or overtime wages, for such time worked. Instead, Plaintiff and Aggrieved Employees were paid for just eight (8) hours in a day or forty (40) hours in a week.

27. During all relevant times for this action, Defendants failed to provide uninterrupted meal periods to Plaintiff and Aggrieved Employees when they worked more than five (5) hours per day and ten (10) hours per day because Defendants required Plaintiff and Aggrieved Employees to stay on duty and never provided an uninterrupted first or second meal break.

28. In addition, Defendants failed to permit Plaintiff and Aggrieved Employees to take uninterrupted rest breaks for any shift exceeding four (4) hours of work or a major fraction thereof.

29. Although Defendants failed to provide uninterrupted meal and rest breaks as required

1 by California law, Defendants failed to pay Plaintiff and Aggrieved Employees premium pay for
2 those days in which they were not permitted to take a meal and/or rest break which was duty free.

3 30. Further, Defendants failed to provide Plaintiff and other similarly Aggrieved
4 Employees with the amount of sick leave available, or paid time off leave provided in lieu of sick
5 leave and further failed to accurately include such information on itemized wage statements.

6 31. In addition, Defendants failed to pay Plaintiff and similarly Aggrieved Employees for
7 all earned and unused and accrued vacation time at their final rate of pay at the time of termination
8 of their employment.

9 32. In addition, Defendants failed to provide Plaintiff and Aggrieved Employees with
10 properly itemized wage statements including because Defendants failed to include the actual hours
11 worked, the correct rate of pay and the meal and rest period premiums owed.

12 33. Further, during Plaintiff and Aggrieved Employees' employment, Defendants were
13 required to pay all wages earned for labor in excess of the normal work period not later than the
14 payday for the next regular payroll period. However, Defendants failed to pay Plaintiff and
15 Aggrieved Employees all wages due to them within the time period specified by California Labor
16 Code section 204, including premiums owed.

17 34. Additionally, Defendants failed to timely pay Plaintiff and other similarly Aggrieved
18 Employees all wages at the end of employment.

19 35. Further, during all relevant times for this action, Plaintiff complained to Defendants
20 regarding not receiving rest and meal periods, not being paid for all time worked, and not being
21 paid in a timely manner, but Plaintiff was ignored.

22 36. In addition, Defendants failed to properly reimburse Plaintiff and Aggrieved
23 Employees for incurred business expenses in the discharge of their duties for Defendants and in
24 obedience to Defendants' instructions, which includes the use of their personal cell phones.
25 Though Plaintiff received a nominal reimbursement of three cents (\$.03) per hour worked, this is
26 grossly below the necessary reimbursement.

27 37. Defendants operated and employed Aggrieved Employees throughout the San
28 Francisco Bay Area, including Contra Costa County.

1 38. Plaintiff, as an “Aggrieved Employee” within the meaning of Labor Code § 2698 *et*
2 *seq.*, acting on behalf of himself and other similarly Aggrieved Employees, brings this
3 representative action against Defendants to recover the civil penalties due to Plaintiff, other
4 similarly Aggrieved Employees, and the State of California according to proof pursuant to Labor
5 Code § 2699 (a) and (f) including, but not limited to \$100.00 for each initial violation and \$200.00
6 for each subsequent violation per employee per pay period for the following Labor Code
7 violations:

- 8 a. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned
9 minimum wage compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*;
- 10 b. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned
11 overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et*
12 *seq.*;
- 13 c. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour
14 of premium pay for meal period violations in violation of Labor Code §§ 226.7 and
15 512;
- 16 d. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour
17 of premium pay for rest period violations in violation of Labor Code §§ 226.7 and
18 512;
- 19 e. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages
20 at end of employment in violation of Labor Code § 203;
- 21 f. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages
22 owed during employment;
- 23 g. Failing to furnish Plaintiff and other similarly Aggrieved Employees with
24 complete, accurate, itemized wage statements in violation of Labor Code § 226;
- 25 h. Failing to maintain accurate records relating to Plaintiff and other similarly
26 Aggrieved Employees work periods, meal periods, total daily hours, hours per pay
27 period, and applicable pay rates;
- 28 i. Failing to properly reimburse Plaintiff and Aggrieved Employees for incurred

business expenses in the discharge of their duties for Defendants and in obedience to Defendants' instructions, which includes the use of their personal cell phones in violation of Labor Code §§ 2800 and 2802;

j. Failing to provide Plaintiff and other similarly Aggrieved Employees with the amount of sick leave available, or paid time off leave provided in lieu of sick leave and further failed to accurately include such information on itemized wage statements in violation of Labor Code §§ 245.5, 246, and 226;

k. Failing to pay Plaintiff and similarly Aggrieved Employees for all earned and unused and accrued vacation time at their final rate of pay at the time of termination of their employment in violation of Labor Code § 227.3;

l. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages at the end of employment in violation of Labor Code § 203;

m. Defendants' unlawful retaliation against Plaintiff after Plaintiff complained about violations under California's Labor Code in violation of California Labor Code §§ 1102.5(b) and 1102.5(f); and

n. Defendants' unlawful retaliation against Plaintiff after Plaintiff complained about violations under California's Labor Code in violation of California Labor Code §§ 98.6(a) and 98.6(b)(3).

1. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which they are entitled to recover under California Labor Code § 2699.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

1. For statutory civil penalties pursuant to Labor Code section 2698, *et seq.*, and as allowed by law and according to proof;

2. For statutory attorneys' fees and costs pursuant to Labor Code sections 2698, *et seq.*, and as allowed by law and according to proof;

1 3. For pre- and post-judgment interest at the maximum legal rate on all amounts claimed;
2 and

3 4. For such other and further relief as the Court may deem just and proper.

4
5 DATED: August 3, 2022

PAYNE NGUYEN, LLP

6
7 By: 
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9 Cody Payne
10 Kim Nguyen
11 Attorneys for Plaintiff
12 JOSE OLIVERA
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DATED: August 3, 2022

By:

Carol T. F.