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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

LEOPOLDO NUCICO, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

v.

HAAS AUTOMATION, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 56-2022-00565792-CU-OE-VTA

[Assigned for all purposes to the Hon. Ronda
McKaig in Department 41]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §
226;**

**(2) VIOLATION OF CAL. LABOR CODE §
2698, *ET SEQ.***

DEMAND EXCEEDS \$25,000.00

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Attorneys for Plaintiff and the Class

1 Plaintiff LEOPOLDO NUCICO (“Plaintiff”) hereby submits this First Amended Class
2 Action Complaint against Defendant HAAS AUTOMATION, INC. (“Defendant” or
3 “Company”), and Does 1-50 (hereinafter collectively referred to as “Defendants”), individually
4 and on behalf of a class of all other similarly situated current and former employees of Defendant
5 for penalties and/or damages for failure to provide accurate and complete wage statements as
6 follows:

7 **INTRODUCTION**

8 1. This class action is within the Court’s jurisdiction under California Labor Code
9 section 226 and the applicable Wage Orders of the Industrial and Welfare Commission (the
10 “IWC”).

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against Defendant’s employees.

13 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly
14 and severally have acted intentionally and with deliberate indifference and conscious disregard to
15 the rights of all employees by failing to provide accurate and complete wage statements to these
16 employees.

17 **JURISDICTION AND VENUE**

18 4. The Court has jurisdiction over the violation of California Labor Code section 226.
19 As alleged below, Plaintiff has exhausted his administrative remedies to proceed under the
20 Private Attorneys General Act (the “PAGA”), Labor Code § 2698, *et seq.*

21 5. Venue is proper in Ventura County because Plaintiff is employed by Defendant in
22 Oxnard, California.

23 **PARTIES**

24 6. In or around 2018, Plaintiff was hired by Defendant as a leak checker/welder.
25 Plaintiff continues to work for Defendant. Throughout Plaintiff’s employment, he has been an
26 hourly, non-exempt employee.

27 7. Plaintiff is informed and believes and based thereon alleges that Defendant was
28 and is a corporation that manufactures machine tools in Ventura County, California. On

1 information and belief, Defendant maintains its corporate headquarters in Oxnard, California.

2 8. Plaintiff is informed and believes and based thereon alleges that at all times herein
3 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
4 partnerships, licensed to do business and actually doing business in the State of California.

5 9. As such, and based upon all the facts and circumstances incident to Defendants'
6 business in California, Defendants are subject to Labor Code section 226 and the applicable IWC
7 Wage Orders.

8 10. Plaintiff does not know the true names or capacities, whether individual, partner or
9 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
10 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 based thereon alleges that each of said fictitious Defendants was responsible in some way for the
13 matters alleged herein and proximately caused Plaintiff and class members to be subject to the
14 illegal employment practices, wrongs and injuries complained of herein.

15 11. At all times herein mentioned, each of said Defendants participated in the doing of
16 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
17 Defendants, and each of them, were the agents, servants, and employees of each of the other
18 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
19 within the course and scope of said agency and employment.

20 12. Plaintiff is informed and believes and based thereon alleges that at all times
21 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
22 joint venturer of, or working in concert with each of the other co-Defendants and was acting
23 within the course and scope of such agency, employment, joint venture, or concerted activity. To
24 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
25 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
26 Defendants.

27 13. At all times herein mentioned, Defendants, and each of them, were members of,
28 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

2 14. At all times herein mentioned, the acts and omissions of various Defendants, and
3 each of them, concurred and contributed to the various acts and omissions of each and all of the
4 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
5 herein mentioned, Defendants, and each of them, ratified each and every act or omission
6 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
7 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
8 the damages as herein alleged.

9 **CLASS ACTION ALLEGATIONS**

10 15. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
11 California Code of Civil Procedure section 382, of the following class:

- 12 a. All current and former employees of Defendant in the State of California who
13 were paid shift differential wages at any time from May 12, 2021, through the
14 present (the “Class” or “Class Members”).

15 16. **Numerosity and Ascertainability:** The members of the Class are so numerous
16 that joinder of all members would be impractical, if not impossible. The identity of the members
17 of the Class is readily ascertainable by review of Defendant’s records, including payroll records.
18 Plaintiff is informed and believes and based thereon alleges that Defendant failed to provide
19 accurate and complete wage statements in violation of Labor Code section 226.

20 17. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
21 necessary steps to represent fairly and adequately the interests of the class defined above.
22 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the class and
23 individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions
24 in the past and currently have a number of wage-and-hour class actions pending in California
25 courts.

26 18. Defendant uniformly administered a corporate policy, practice of failing to provide
27 accurate and complete wage statements in violation of Labor Code section 226.

28 19. **Common Question of Law and Fact:** There are predominant common questions

1 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
2 concerning Defendant failing to provide accurate and complete wage statements in violation of
3 Labor Code section 226.

4 20. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
5 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical
6 manner as the Class Members. As with other non-exempt employees, Plaintiff received itemized
7 wage statements concurrent with the payment of wages. The wage statements provided to
8 Plaintiff and Class Members failed to list the accurate total hours worked whenever shift
9 differential wages were paid in violation of Labor Code section 226. As such, Plaintiff is a
10 member of the Class and has suffered the alleged violations of California Labor Code section 226
11 and the applicable Wage Orders.

12 21. The California Labor Code and upon which Plaintiff bases these claims is broadly
13 remedial in nature. These laws and labor standards serve an important public interest in
14 establishing minimum working conditions and standards in California. These laws and labor
15 standards protect the average working employee from exploitation by employers who may seek to
16 take advantage of superior economic and bargaining power in setting onerous terms and
17 conditions of employment.

18 22. The nature of this action and the format of laws available to Plaintiff and members
19 of the Class identified herein make the class action format a particularly efficient and appropriate
20 procedure to redress the wrongs alleged herein. If each employee were required to file an
21 individual lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage
22 since it would be able to exploit and overwhelm the limited resources of each individual plaintiff
23 with their vastly superior financial and legal resources. Requiring each Class member to pursue
24 an individual remedy would also discourage the assertion of lawful claims by employees who
25 would be disinclined to file an action against their former and/or current employer for real and
26 justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

27 23. The prosecution of separate actions by the individual class members, even if
28 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect

1 to individual Class members against the Defendant and which would establish potentially
2 incompatible standards of conduct for the Defendant, and/or (b) adjudications with respect to
3 individual Class members which would, as a practical matter, be dispositive of the interest of the
4 other Class members not parties to the adjudications or which would substantially impair or
5 impede the ability of the Class members to protect their interests. Further, the claims of the
6 individual members of the Class are not sufficiently large to warrant vigorous individual
7 prosecution considering all of the concomitant costs and expenses.

8 24. Such a pattern, practice, and uniform administration of corporate policy regarding
9 illegal employee compensation described herein is unlawful and creates an entitlement to
10 recovery by the Plaintiff and the Class identified herein of a common fund, including interest
11 thereon, applicable penalties, reasonable attorneys' fees, and costs of suit according to the
12 mandate of California Labor Code section 226 and Code of Civil Procedure section 1021.5.

13 25. Proof of a common business practice or factual pattern, which the named Plaintiff
14 experienced and are representative of, will establish the right of each of the members of the Class
15 to recovery on the causes of action alleged herein.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE § 226**

18 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

19 26. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
20 though fully set forth herein.

21 27. Defendant, as a matter of policy and practice, did not provide accurate wage
22 statements to Class Members, in violation of Labor Code section 226(a).

23 28. Plaintiff and Class Members were paid on an hourly basis. As such, the wage
24 statements provided to them should have reflected the accurate total hours worked whenever shift
25 differential wages were paid. However, the wage statements provided to Plaintiff and the Class
26 failed to accurately identify such information. In particular, when the hours shown on the wage
27 statements are added up, they do not appear to add up to the actual total hours worked.

28 29. Such a pattern, practice and uniform administration of corporate policy as

1 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
2 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code section
3 226, including interest thereon, attorneys' fees, and costs of suit according to the mandate of
4 California Labor Code section 226.

5 **SECOND CAUSE OF ACTION**

6 **VIOLATION OF CAL. LABOR CODE § 2698, *ET SEQ.***

7 **(BY PLAINTIFF AS PROXY FOR THE STATE OF CALIFORNIA AGAINST ALL**
8 **DEFENDANTS)**

9 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
10 though fully set forth herein.

11 31. Plaintiff brings this cause of action as a proxy for the State of California and in this
12 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of
13 Labor Code § 226, from May 11, 2021, through the present, arising from Defendants' failure to
14 correctly identify the total hours worked in violation of Labor Code § 226(a)(2). Specifically,
15 whenever shift differential and/or shift premium wages were paid, the wage statements issued to
16 the employees did not identify the accurate total hours worked. In particular, when the hours
17 shown on the wage statements are added up, they do not appear to add up to the actual total hours
18 worked.

19 32. On or about May 11, 2022, Plaintiff sent written notice to the California Labor &
20 Workforce Development Agency (the "LWDA") and to Defendant via certified mail, return-
21 receipt requested of Defendant's violations of Labor Code § 226, pursuant to Labor Code § 2698,
22 *et seq.*, the PAGA.

23 33. As of the date of this filing, the LWDA has not provided written notice regarding
24 whether it intends to investigate the Labor Code violations set forth in Plaintiff's written notice
25 and thus allowing Plaintiff to proceed under PAGA against Defendants for said violations.
26 Therefore, Plaintiff may seek any and all applicable penalties under PAGA.

27 34. As such, pursuant to Labor Code §§ 226.3 and 2699(a), Plaintiff seeks recovery of
28 any and all applicable civil penalties for Defendants' violation of Labor Code § 226, for the time

1 periods described above, as a proxy for the State of California and on behalf of other Aggrieved
2 Employees.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf
5 this suit is brought against Defendants, jointly and severally, as follows:

- 6 1. For an order certifying the proposed Class;
- 7 2. For an order appointing Plaintiff as the representative of the Class as described
8 herein;
- 9 3. For an order appointing counsel for Plaintiff as Class counsel;
- 10 4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as
11 set forth in California Labor Code section 226, and for costs and attorneys' fees;
- 12 5. Upon the Second Cause of Action, for civil penalties, costs and attorneys' fees
13 pursuant to Labor Code sections 226.3 and 2699;
- 14 6. On all causes of action, for attorneys' fees and costs as provided by California
15 Labor Code section 226 and Code of Civil Procedure section 1021.5; and
- 16 7. For such other and further relief as the Court may deem just and proper.

17 DATED: September 2, 2022

DIVERSITY LAW GROUP, P.C.

18
19 By: 
20 Larry W. Lee
21 Attorneys for Plaintiff and the Class
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PROOF OF SERVICE

I am employed in the County of Los Angeles; I am over the age of 18 years and not a party to the within action; my business address is 515 S. Figueroa St. Suite 1250, Los Angeles, California 90071.

On September 2, 2022, I served the foregoing document(s) described as: **FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES**, on the interested parties in this action by placing a true copy thereof, in a sealed envelope(s) addressed as follows:

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 X **BY ELECTRONIC SERVICE**

 X I caused a true and complete copy of the document(s) described above to be served on the offices and person(s) set forth above via electronic mail.

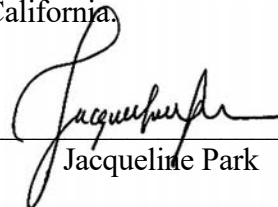
 X **BY MAIL**

 X As follows: I am "readily familiar" with the practice of Choi & Associates, Attorneys at Law for collection and processing of correspondence for mailing with the United States Postal Service and that correspondence placed in the outgoing mail tray in my office for collection would be deposited in the United States Mail that same day in the ordinary course of business.

 X **(State)** I declare under penalty of perjury that the foregoing is true and correct.

 (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 2, 2022, at Los Angeles, California.



Jacqueline Park