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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
05/30/2024 at 05:29:14 PM
Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

Attorneys for Plaintiff MATTHEW J. SOLIS,
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

MATTHEW J. SOLIS, on behalf of himself and
current and former aggrieved employees

Plaintiff,

vs.

GOVERNMENT EMPLOYEES INSURANCE
COMPANY; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 37-2024-00025248-CU-OE-CTL

PAGA ACTION

**PLAINTIFF MATTHEW J. SOLIS'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff MATTHEW J. SOLIS ("Plaintiff"), who alleges and complains
against Defendants GOVERNMENT EMPLOYEES INSURANCE COMPANY; and DOES 1 to
100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked remotely as hourly
non-exempt employees in California during the relevant time period seeking civil penalties
associated with Defendants' violation of the Labor Code based on Defendants' failure to timely
pay employees all wages due upon separation of employment. Plaintiff seeks on a representative

1 basis, following notice to the Labor and Workforce Development Agency, civil penalties,
2 reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf
3 of Plaintiff, the State of California, and others aggrieved.

4 **II. JURISDICTION AND VENUE**

5 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
6 former aggrieved California-based remote hourly non-exempt employees because Plaintiff's
7 lawsuit seeks civil penalties on behalf of himself, all other current and former aggrieved
8 California-based remote hourly non-exempt employees, and the State of California in excess of
9 twenty-five thousand dollars (\$25,000); Defendants employed Plaintiff and all other current and
10 former aggrieved California-based remote hourly non-exempt employees; and the injuries to
11 Plaintiff and all other current and former aggrieved California-based remote hourly non-exempt
12 employees occurred in locations throughout California, including but not limited to San Diego
13 County.

14 **III. PARTIES**

15 3. Plaintiff brings this action as a representative of the Labor and Workforce
16 Development Agency on behalf of himself and other current and former remote employees subject
17 to violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action
18 is filed include current, former and/or future employees of Defendants who work, worked, or will
19 work for Defendants remotely as direct employees as well as temporary employees employed
20 through temp agencies as hourly non-exempt employees in California. At all times mentioned
21 herein, the currently named Plaintiff is and was domiciled and a resident and citizen of California
22 and was employed by Defendants in an hourly position at Defendants' location in Poway from
23 approximately December 12, 2022 to approximately April 27, 2023.

24 4. Plaintiff is informed and believes and thereon alleges that Defendant
25 GOVERNMENT EMPLOYEES INSURANCE COMPANY is authorized to do business within
26 the State of California and is doing business in the State of California and/or that Defendants
27 DOES 1-50 are, and at all times relevant hereto were persons acting on behalf of Defendant
28 GOVERNMENT EMPLOYEES INSURANCE COMPANY in the establishment of, or

1 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
2 GOVERNMENT EMPLOYEES INSURANCE COMPANY operates in San Diego County and
3 employed Plaintiff and aggrieved employees in San Diego County, including but not limited to, at
4 14111 Danielson St., Poway, CA 92064.

5 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
6 through 50 are corporations, or are other business entities or organizations of a nature unknown to
7 Plaintiff that employed Plaintiff and aggrieved California remote non-exempt employees,
8 permitted Plaintiff and aggrieved employees to work, and exercised control over the wages, hours
9 and working conditions of employment of Plaintiff and aggrieved employees.

10 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
11 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
12 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
13 supervisor, independent contractor and/or employee of each defendant who violated or caused to
14 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
15 the Industrial Welfare Commission's wage orders regulating hours and days of work.

16 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
17 sues said defendants by said fictitious names, and will amend this complaint when the true names
18 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
19 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
20 named defendants is in some manner responsible for the events and allegations set forth in this
21 complaint.

22 8. Plaintiff makes the allegations in this complaint without any admission that, as to
23 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
24 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

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1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
3 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

4 **(Against all Defendants by Plaintiff)**

5 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

6 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
7 Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 510, 512, 1194,
8 1197, and the applicable Wage Orders.

9 11. Specifically, Defendants have committed the following violations of California
10 Labor Code:

11 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services which inure to the benefit of the employer.

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders.

20 14. In this case, Plaintiff and other current and former aggrieved California-based
21 remote hourly non-exempt employees worked more minutes per shift than Defendants credited
22 them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and
23 former aggrieved California-based hourly non-exempt employees all wages at the applicable
24 minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures
25 including, but not limited to:

26 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
27 non-exempt employees who worked remotely in CA to set up their employer-provided computer
28 system off the clock. The initial set up required, a HDMI adapter, a laptop, and a special VPN

1 mechanism. They had to plug in all three devices, log into 3 different systems, and then were able
2 to start work. This initial process of setting up a Plaintiff and other current and former aggrieved
3 California-based hourly non-exempt employees' workstation took approximately 1 hour to
4 complete.

5 (b) Each shift worked remotely, Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees who worked remotely in CA were required to:

- 7 i. Boot up their computers;
- 8 ii. Wait for their computers to load;
- 9 iii. Once loaded, enter credentials to log into Defendants' computer system;
- 10 iv. Request and wait to receive a 2-factor authentication code from the
11 Defendants' computer system on their personal cell phone using an
12 application Defendants required them to download;
- 13 v. Once received, use biometric security features on their phones to access the
14 code;
- 15 vi. Use the code to log into Defendants' computer system;
- 16 vii. Once in Defendants' computer system, they had to launch the timekeeping
17 application and wait for it to load; and
- 18 viii. Log into the timekeeping application then clock in for the start of their shift.

19 (c) Plaintiff estimates that he and other current and former aggrieved California-based
20 hourly non-exempt employees spent five (5) to fifteen (15) minutes on the aforementioned boot-up
21 process every shift worked remotely. Plaintiff and other current and former aggrieved California-
22 based remote hourly non-exempt employees were not paid for this time.

23 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
24 and former aggrieved California-based remote hourly non-exempt employees to be subject to
25 Defendants' control without paying wages for that time. This resulted in Plaintiff and other current
26 and former aggrieved California-based remote hourly non-exempt employees working time for
27 which they were not compensated any wages, in violation of Labor Code sections 1194 and 1197
28 and the applicable Wage Order.

1 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
2 Defendants employed many of their employees, including Plaintiff, as remote hourly non-exempt
3 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
4 which includes all time that an employee is under control of the employer and all time the
5 employee is suffered and permitted to work. This includes the time an employee spends, either
6 directly or indirectly, performing services that inure to the benefit of the employer.’

7 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
8 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
9 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

10 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
11 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
12 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
13 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
14 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
15 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
16 seventh day of a workweek shall be compensated at the rate of no less than twice the
17 regular rate of pay of an employee.

18 Labor Code section 510.

19 18. In this case, Defendants failed to pay Plaintiff and other current and former
20 aggrieved California-based remote hourly non-exempt employees overtime wages for all overtime
21 hours worked due to Defendants’ policies, practices, and/or procedures including, but not limited
22 to:

23 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
24 non-exempt employees who worked remotely in CA to set up their employer-provided computer
25 system off the clock. The initial set up required, a HDMI adapter, a laptop, and a special VPN
26 mechanism. They had to plug in all three devices, log into 3 different systems, and then were able
27 to start work. This initial process of setting up a Plaintiff and other current and former aggrieved
28 California-based hourly non-exempt employees’ workstation took about 1 hour to complete.

 (b) Each shift worked remotely, Plaintiff and other current and former aggrieved
California-based hourly non-exempt employees who worked remotely in CA were required to:

 i. Boot up their computers;

- ii. Wait for their computers to load;
- iii. Once loaded, enter credentials to log into Defendants' computer system;
- iv. Request and wait to receive a 2-factor authentication code from the Defendants' computer system on their personal cell phone using an application Defendants required them to download;
- v. Once received, use biometric security features on their phones to access the code;
- vi. Use the code to log into Defendants' computer system;
- vii. Once in Defendants' computer system, they had to launch the timekeeping application and wait for it to load; and

(c) Log into the timekeeping application then clock in for the start of their shift.

Plaintiff estimates that he and other current and former aggrieved California-based hourly non-exempt employees spent five (5) to fifteen (15) minutes on the aforementioned boot-up process every shift worked remotely.

19. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiff and other current and former aggrieved California-based remote hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved California-based remote hourly non-exempt employees worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code sections 510, 1194 and 1198, and the applicable Wage Order.

20. **Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other current and former aggrieved California-based remote hourly non-exempt employees regularly worked shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

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21. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code sections 226.7, 512, and 1198; Wage Order 4 at §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is only permitted when: (1) the nature of the work prevents an employee from being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

22. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code sections 226.7 and 1198; Wage Order 4 at §11.

23. In this case, on occasions where Defendants paid Plaintiff and other current and former aggrieved California-based remote hourly non-exempt employees a "premium" wage for late, missed, short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff's and other current and former aggrieved California-based remote hourly non-exempt employees' regular rate of compensation. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration including, but not limited to, shift differential pay when calculating Plaintiff's and other current and former aggrieved California-based remote hourly non-exempt employees' regular rate of pay for the purpose of paying meal period premium wages.

24. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff and other current and former aggrieved California-based remote hourly non-exempt employees not receiving proper premium wages to compensate them for workdays during which Defendants did

1 not provide them with meal periods in compliance with California law.

2 **25. Failure to pay wages to hourly non-exempt employees for workdays that**
3 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
4 current and former aggrieved California-based remote hourly non-exempt employees regularly
5 worked shifts of more than three-and-a-half (3.5) hours.

6 26. California law requires every employer to authorize and permit an employee a rest
7 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
8 Code section 226.7; Wage Order 4 at §12. Under California law, “[e]mployees are entitled to 10
9 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
10 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
11 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
12 section 226.7; Wage Order 4 at §12. Rest periods, insofar as practicable, shall be in the middle of
13 each work period. Wage Order 4 at §12. Additionally, the rest period requirement “obligates
14 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
15 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
16 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

17 27. If the employer fails to authorize or permit a required rest period, the employer
18 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
19 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
20 Wage Order 4 at § 12.

21 28. In this case, on occasions when Defendants did pay Plaintiff and other current and
22 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
23 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
24 one (1) additional hour of pay at Plaintiff’s and other current and former aggrieved California-
25 based hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants
26 maintained a policy, practice, and/or procedure of failing to include all remuneration such as shift
27 differential pay, for example, when calculating Plaintiff’s and other current and former aggrieved
28 California-based remote hourly non-exempt employees’ regular rate of pay for the purpose of

1 paying rest period premiums.

2 29. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
3 and other current and former aggrieved California-based remote hourly non-exempt employees not
4 receiving proper premium wages to compensate them for workdays in which Defendants did not
5 provide them with rest periods in compliance with California law.

6 30. **Failure to timely pay earned wages during employment:** In California, wages
7 must be paid at least twice during each calendar month on days designated in advance by the
8 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
9 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
10 16th and the 26th day of that month and wages earned between the 16th and the last day,
11 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
12 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
13 paid within seven (7) calendar days following the close of the payroll period in which wages were
14 earned. Labor Code section 204(d).

15 31. As a derivative of the Labor Code violation allegations above, Plaintiff alleges that
16 Defendants failed to timely pay Plaintiff's and other current and former aggrieved California-
17 based remote hourly non-exempt employees' earned wages (including minimum wages, overtime
18 wages, meal period premium wages, and/or rest period premium wages) in violation of Labor
19 Code section 204. Defendants' aforementioned policies, practices, and/or procedures resulted in
20 their failure to pay Plaintiff's and other current and former aggrieved California-based remote
21 hourly non-exempt employees' their earned wages within the applicable time frames outlined in
22 Labor Code section 204.

23 32. **Secret payment of lower wages than designated by statute:** Labor Code section
24 223 provides that, where any statute or contract requires an employer to maintain the designated
25 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage
26 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including
27 but not limited to failing to: pay meal and/or rest break premiums at the employees' regular rate of
28 pay, as established by Labor Code sections 226.7, 246, 510, 1194 and sections 11 and 12 of the

1 applicable IWC Wage Orders, as incorporated by Labor Code section 1198, the Defendant secretly
2 paid a lower wage than designated by statute while purporting to pay the wages designated by
3 statute, in violation of Labor Code section 223.

4 **33. Failure to pay employees all wages due at time of termination/resignation:** An
5 employer is required to pay all unpaid wages timely after an employee's employment ends. The
6 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
7 hours of resignation (Labor Code section 202).

8 **34.** As a derivative of Plaintiff's allegations above, because Defendants failed to pay
9 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
10 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
11 and/or rest period premium wages), Defendants failed to pay those employees timely after each
12 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

13 **35.** Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
14 employee, on behalf of himself or herself and other current or former employees, to bring a civil
15 action to recover civil penalties against all Defendants pursuant to the procedures specified in
16 Labor Code section 2699.3.

17 **36.** Plaintiff has complied with the procedures for bringing suit specified in Labor
18 Code section 2699.3. On March 4, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA
19 and provided notice to Defendants by certified mail which provided notice of the specific
20 provisions of the Labor Code alleged to have been violated, including the facts and theories to
21 support the violations alleged.

22 **37.** Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
23 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
24 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
25 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
26 to investigate Plaintiff's claims.

27 **38.** Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
28 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a),

226.7, 510, 512, and/or 1194, During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 226(a), and 226.7; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226(a), alternatively, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558].

d. For violations of Labor Code section 204, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 210].

e. For violations of Labor Code section 223, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 225.5].

39. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with his claims for civil penalties.

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PRAYER FOR RELIEF

**WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER
AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to sections 210, 225.5, 226.3, 558, 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: May 30, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By:



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Cassandra A. Castro, Esq.

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MATTHEW J. SOLIS
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