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(Additional counsel on next page)

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

MICHELLE LUJANO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

PIEDMONT AIRLINES, INC., a Maryland
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 30-2022-01291528-CU-OE-CXC

[Assigned for all purposes to the Hon. Lon
F. Hurwitz, Dept. CX 103]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) VIOLATION OF LABOR CODE §§
201-204, 510, 1194, 1197, AND 1197.1;**
- (2) VIOLATION OF LABOR CODE §
226;**
- (3) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200, *ET*
SEQ.; AND**
- (4) VIOLATION OF LABOR CODE §
2698, *ET SEQ.***

DEMAND OVER \$25,0000

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9 Attorneys for Plaintiff and the Class

1 Plaintiff Michelle Lujano (“Plaintiff”) hereby submits his First Amended Class
2 Action Complaint (“Complaint”) against Defendant Piedmont Airlines, Inc.
3 (“Defendant”), a Maryland corporation; and Does 1 through 50 (hereinafter collectively
4 referred to as “Defendants”), on behalf of himself and all similarly situated current and
5 former employees of Defendants for penalties and/or damages for failure to pay all
6 overtime wages, provide accurate itemized wage statements, and timely pay all wages in
7 violation of the California Labor Code as follow:

8 **JURISDICTION AND VENUE**

9 1. This class action is within the Court’s jurisdiction under California Labor Code §§
10 201-203, 226, 510, 1194, 1197, and 1197.1, the California Industrial Welfare Commission’s
11 (“IWC”) Wage Orders, and the Unfair Competition Law (the “UCL”), Business & Professions
12 Code § 17200, *et seq.*

13 2. This complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code against Plaintiff individually and against other
15 individuals who worked for Defendants.

16 3. Plaintiff is informed and believes, and based thereon alleges, Defendants, jointly
17 and severally, have acted intentionally and with deliberate indifference and conscious disregard
18 to the rights of Plaintiff and class members by failing to pay all employees all owed overtime
19 wages, failing to provide accurate itemized wage statements, and failing to timely pay wages to
20 all separated employees.

21 4. Plaintiff is informed and believes, and based thereon alleges, Defendants have
22 engaged in, among other things a system of willful violations of the California Labor Code and
23 applicable IWC wage orders by creating and maintaining policies, practices and customs that
24 knowingly deny employees the above stated rights and benefits.

25 5. Venue is proper in this Court because Plaintiff is a resident of Orange County.

26 **PARTIES**

27 6. Plaintiff is a former employee of Defendant. Plaintiff was employed by
28 Defendant from in or around March 2016, until on or about October 28, 2022. Plaintiff worked

1 for Defendant at the Long Beach Airport as a non-exempt Customer Service Agent.

2 7. Plaintiff was and is the victim of the policies, practices, and customs of
3 Defendants complained of in this action in ways that have deprived Plaintiff of the rights
4 guaranteed to him by California Labor Code §§ Labor Code §§ 201-203, 226, 510, 1194, 1197,
5 and 1197.1, the applicable IWC Wage Orders, and the UCL.

6 8. Plaintiff is informed and believes, and based thereon alleges, Defendant was and
7 is a Maryland corporation doing business in the State of California.

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

12 10. As such, and based upon all the facts and circumstances incident to Defendants'
13 business in California, Defendants are subject to Labor Code §§ 201-203, 226, 510, 1194, 1197,
14 and 1197.1, the IWC Wage Orders, and the UCL.

15 11. Plaintiff does not know the true names or capacities, whether individual, partner
16 or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason,
17 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
18 Complaint when the true names and capacities are known. Plaintiff is informed and believes,
19 and based thereon alleges, that each of said fictitious Defendants was responsible in some way
20 for the matters alleged herein and proximately caused Plaintiff and members of the general
21 public and class to be subject to the illegal employment practices, wrongs and injuries
22 complained of herein.

23 12. At all times herein mentioned, each of said Defendants participated in the doing
24 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
25 Defendants, and each of them, were the agents, servants and employees of each of the other
26 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
27 acting within the course and scope of said agency and employment.

28 13. Plaintiff is informed and believes, and based thereon alleges, that at all times

1 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
2 joint venturer of, or working in concert with each of the other co- Defendants and was acting
3 within the course and scope of such agency, employment, joint venture, or concerted activity.
4 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
5 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
6 Defendants.

7 14. At all times herein mentioned, Defendants, and each of them, were members of,
8 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
9 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

10 15. At all times herein mentioned, the acts and omissions of various Defendants, and
11 each of them, concurred and contributed to the various acts and omissions of each and all of the
12 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
13 herein mentioned, Defendants, and each of them, ratified each and every act or omission
14 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
15 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
16 the damages as herein alleged.

17 **CLASS ALLEGATIONS**

18 16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
19 California Code of Civil Procedure § 382, of the following class:

- 20 a. All of Defendant's current and former non-exempt employees who were
21 subject to Defendant's policy of paying overtime only after working 40
22 hours in a workweek in the State of California at any time from November
23 14, 2018, through the present (the "Class").

24 17. **Numerosity and Ascertainability:** The members of the Class are so numerous
25 that joinder of all members would be impractical, if not impossible. The identity of the members
26 of the Class is readily ascertainable by review of the Company's records, including payroll
27 records. Plaintiff is informed and believes, and based thereon alleges, that the Company failed
28 to: (a) pay all overtime wages by not paying overtime wages to employees who worked over 8

1 hours in a workday, but less than 40 hours in a workweek in violation of Labor Code §§ 201-
2 203, 510, 1194, 1197, and 1197.1; (b) provide accurate itemized wage statements in violation of
3 Labor Code § 226; and (3) timely pay final wages to separated employees in violation of Labor
4 Code §§ 201-203.

5 18. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
6 necessary steps to represent fairly and adequately the interests of the class defined above.
7 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and the
8 named Plaintiffs. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions
9 in the past and currently have a number of wage-and-hour class actions pending in California
10 courts.

11 19. **Common Question of Law and Fact:** There are predominant common questions
12 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
13 concerning the Company's failure to: (a) pay all overtime wages by not paying overtime wages
14 to employees who worked over 8 hours in a workday, but less than 40 hours in a workweek in
15 violation of Labor Code §§ 201-203, 510, 1194, 1197, and 1197.1; (b) provide accurate itemized
16 wage statements in violation of Labor Code § 226; and (3) timely pay final wages to separated
17 employees in violation of Labor Code §§ 201-203.

18 20. **Typicality:** The claims of the named Plaintiff are typical of the claims of all
19 members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar
20 and typical manner as the Class members. Specifically, throughout Plaintiff's employment with
21 the Company, Plaintiff was paid overtime wages only when she worked more than 40 hours per
22 week. However, if Plaintiff worked more than 8 hours in a day but not over 40 hours in the same
23 week, she would not be paid any overtime wages. Further as a result of such violations, the
24 Company violated Labor Code §§ 201-203 by not paying former employees (including Plaintiff)
25 all of their wages upon separation of employment due to the underpaid wages and Labor Code §
26 226(a) as the net/gross wages earned, hourly rates, and hours worked shown on the wage
27 statements issued to Plaintiff and Class Members were inaccurate due to the wage violations set
28 forth above. Thus, Plaintiff is a member of the Class and has suffered the alleged violations of

1 California Labor Code §§ 201-203, 226, 510, 1194, 1197, and 1197.1, the IWC Wage Orders,
2 and the UCL.

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

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

19 23. The prosecution of separate actions by the individual class members, even if
20 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
21 to individual Class members against the Company and which would establish potentially
22 incompatible standards of conduct for the Company, and/or (b) adjudications with respect to
23 individual Class members which would, as a practical matter, be dispositive of the interest of the
24 other Class members not parties to the adjudications or which would substantially impair or
25 impede the ability of the Class members to protect their interests. Further, the claims of the
26 individual members of the Class are not sufficiently large to warrant vigorous individual
27 prosecution considering all of the concomitant costs and expenses.

28 24. Such a pattern, practice and uniform administration of corporate policy regarding

1 illegal employee compensation described herein is unlawful and creates an entitlement to
2 recovery by Plaintiffs and the Class identified herein, in a civil action any and all applicable
3 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
4 of California Labor Code §§ 218.5, 1194, and 1197.1, and Code of Civil Procedure § 1021.5.

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

8 **FIRST CAUSE OF ACTION**

9 **VIOLATION OF LABOR CODE §§ 201-203, 510, 1194, 1197, AND 1197.1**

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

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

13 27. This cause of action is brought pursuant to Labor Code §§ 201-203, 510, 1194,
14 1197, and 1197.1, which require an employer to pay employees overtime at a rate of one and
15 one-half the employee's regular rate of pay for any work in excess of eight hours in a workday or
16 40 hours in a workweek.

17 28. As a pattern and practice, Defendant suffered and permitted employees to work in
18 excess of eight hours in a workday and/or over 40 hours in a workweek without payment of full
19 overtime wages. Specifically, throughout Plaintiff's employment with the Company, Plaintiff
20 was paid overtime wages only when she worked more than 40 hours per week. However, if
21 Plaintiff worked more than 8 hours in a day but not over 40 hours in the same week, she would
22 not be paid any overtime wages. Therefore, Defendants owe Plaintiff and Class Members
23 additional overtime pay.

24 29. Plaintiff is informed and believes, and based thereon alleges Defendants willfully
25 failed to pay employees all overtime wages all hours worked. Plaintiff is informed and believes,
26 and based thereon alleges Defendants' willful failure to provide all overtime wages due and
27 owing them upon separation from employment results in a continued payment of wages up to
28 thirty (30) days from the time the wages were due. Therefore, Plaintiff and other members of the

1 Class who have separated from employment are entitled to compensation pursuant to Labor
2 Code § 203.

3 30. Such a pattern, practice and uniform administration of corporate policy regarding
4 illegal employee compensation as described herein is unlawful and creates an entitlement to
5 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
6 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according
7 to the mandate of California Labor Code §§ 218.5, 510, 1194, and 1197.1.

8 **SECOND CAUSE OF ACTION**

9 **VIOLATION OF LABOR CODE §§ 226**

10 **(AGAINST ALL DEFENDANTS BY PLAINTIFFS AND THE CLASS)**

11 31. The preceding paragraphs are re-alleged and incorporated by this reference.

12 32. Defendants failed in their affirmative obligation to provide accurate itemized
13 wage statements. Labor Code § 226(a) requires that an employer provide an itemized wage
14 statement every time wages are paid to an employee. Here, Defendants violated Labor Code §
15 226(a) as the net/gross wages earned, hourly rates and hours worked shown on the wage
16 statements issued to Plaintiff and Class Members were inaccurate due to Defendant's failure to
17 properly pay all overtime wages due to Plaintiff and Class Members as alleged herein.

18 33. Such a pattern, practice and uniform administration of corporate policy as
19 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
20 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
21 including interest thereon, attorneys' fees, and costs of suit according to the mandate of
22 California Labor Code § 226.

23 **THIRD CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200, *ET SEQ.***

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

26 34. The preceding paragraphs are re-alleged and incorporated by this reference.

27 35. Plaintiff is informed and believes that at Defendants have engaged and continue to
28 engage in unfair and unlawful business practices in California by utilizing the employment

1 policies and practices alleged herein, including the failures to pay all overtime wages due to
2 Plaintiff and Class Members in violation of Labor Code §§ 510, 1194, 1197, and 1197.1.

3 36. Defendants' utilization of such unfair and unlawful business practices constitutes
4 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors,
5 as proscribed by the UCL. Defendants have deprived Plaintiff and the Class the minimum
6 working condition standards and conditions due to them under the Labor Code and applicable
7 IWC Wage Orders.

8 37. Such a pattern, practice, and uniform administration of corporate policy is
9 unlawful and entitles Plaintiff and the Class to full restitution of all monies withheld, acquired, or
10 converted by Defendants by means of the unfair practices complained of herein, including
11 interest thereon, and costs of suit.

12 **FOURTH CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

14 **(BY PLAINTIFF AS PROXY FOR STATE OF CALIFORNIA AGAINST ALL**
15 **DEFENDANTS)**

16 38. The preceding paragraphs are re-alleged and incorporated by this reference.

17 39. Plaintiff brings this cause of action on behalf as a proxy for the State of California
18 and in this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendant's
19 violation of Labor Code 201-204, 510, 558, 1194, 1197, and 1197.1, from November 8, 2021,
20 through the present.

21 40. On or about November 8, 2022, Plaintiff sent written notice to the California
22 Labor & Workforce Development Agency ("LWDA") and to Defendants via certified mail
23 regarding Defendant's violations of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1,
24 pursuant to Labor Code § 2698, *et seq.*

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

42. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable remedies under the PAGA for Defendant's violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1 for the time periods described above on behalf of all other Aggrieved Employees, including without limitation, civil penalties under Labor Code § 2699, any remedies under Labor Code §§ 226.3, and for costs and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and all current and former similarly situated employees against Defendants, jointly and severally, as follows:

1. Upon the First Cause of Action, for damages and/or penalties pursuant to Labor Code §§ 201-203, 510, 1194, 1197, and 1197.1, and for attorneys' fees and costs pursuant to Labor Code §§ 218.5 and 1194;

2. Upon the Second Cause of Action, for damages and/or penalties, attorneys' fees and costs pursuant to Labor Code § 226;

3. Upon the Third Cause of Action, for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for costs;

4. Upon the Fourth Cause of Action, for civil penalties, costs and attorneys' fees pursuant to Labor Code §§ 226.3 and 2699;

5. On all causes of action, for attorneys' fees and costs as provided by California Labor Code §§ 218.5 and 1194, and Code of Civil Procedure § 1021.5; and

6. For such other and further relief the Court may deem just and proper.

Dated: January 26, 2023

DIVERSITY LAW GROUP, P.C.

By: /s/ Larry W. Lee
Larry W. Lee
Attorneys for Plaintiff and the Class

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

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

On January 26, 2023, I served the following document(s) described as: **FIRST AMENDED CLASS ACTION COMPLAINT** on the interested parties in this action as follows:

Mark W. Robertson Kelly S. Wood O'Melveny & Myers LLP 610 Newport Center Drive, 17 th Floor Newport Beach, California 92660	<i>Attorneys for Defendant Piedmont Airlines, Inc.</i> mrobertson@omm.com kwood@omm.com
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 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the One Legal E-Filing System at the website www.onelegal.com addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 26, 2023, at Los Angeles, California.



Erika Mejia