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by Superior Court of CA,
County of Santa Clara,
on 4/17/2023 5:33 PM
Reviewed By: R. Walker
Case #23CV410939
Envelope: 11731484

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ALEXANDER BUENO, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

ZOLLNER ELECTRONICS, INC.; and DOES 1
through 100, inclusive,

Defendants.

Case No. 23CV410939

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) FAILURE TO PAY MEAL PERIOD
PREMIUMS AT THE REGULAR
RATE OF COMPENSATION
(LABOR CODE §§ 226.7, 1198)**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 1198);**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 1198)**
- (5) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (6) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*)**
- (8) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Alexander Bueno (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this Class and Representative Action Complaint against Zollner
3 Electronics, Inc.; and Does 1 through 100, inclusive (collectively, “Defendants”), and on
4 information and belief alleges as follows:

5
6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 class and representative action for recovery of unpaid wages and penalties under California
9 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 226, 226.7,
10 510, 512, 516, 558, 1194, 1197, and 1198, 2698 *et seq*; and Industrial Welfare Commission Wage
11 Order No. 1 (“Wage Order 1”), in addition to seeking declaratory relief and restitution. This class
12 action is brought pursuant to California Code of Civil Procedure section 382. This Court has
13 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
14 controversy exceeds this Court’s jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in Santa Clara County. Defendants own, maintain offices, transact business, have an
19 agent or agents within Santa Clara County, and/or otherwise are found within Santa Clara County,
20 and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was, and is, a California resident. During the four years immediately preceding the filing
24 of this action and within the statute of limitations periods applicable to each cause of action herein,
25 Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim
26 of Defendants’ policies and/or practices complained of herein, lost money and/or property, and
27 has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7, 510, 512, 516,
28 558, 1194, 1197, and 1198, 2698 *et seq*; Business & Professions Code § 17200, *et seq.* (Unfair

Competition), and Wage Order 1, which sets employment standards for the manufacturing industry.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do) business as an electronics manufacturing company, with their principal executive office and nerve center in Santa Clara County, California, and that they employed Plaintiff and other similarly situated non-exempt employees within Santa Clara County and the state of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

7. At all times herein mentioned, each of said Defendants participated in the acts herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each of the acts or omissions alleged herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class Members (as defined in Paragraph 16).

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10. During Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees often worked over 8.0 hours in a workday and/or over 40.0 hours in a workweek, but Defendants failed to pay them overtime compensation at one-and-one-half times (or two times in the case of double-time) their "regular rate" of pay as required under Labor Code § 510 and Wage Order 1. Specifically, Plaintiff and other non-exempt employees earned quarterly non-discretionary bonuses and/or other forms of compensation not excludable from the "regular rate" of pay (these forms of pay are hereinafter referred to collectively as "Incentive Pay"). However, Defendants paid overtime and/or double-time compensation at one-and-one-half times (or two times) employees' *base* rate of pay, without incorporating Incentive Pay into the "regular rate" of pay. For example, on May 27, 2022, Plaintiff was paid a bonus of \$846.15. On information and belief, this was a quarterly bonus paid to Plaintiff and other employees based on certain objective metrics being met in the first quarter of 2022. Plaintiff also worked overtime during the first quarter of 2022, but Defendants failed to incorporate the value of the bonus into Plaintiff's regular rate of pay, and instead paid Plaintiff overtime at 1.5 times his *base* rate of pay. Similarly, Plaintiff was paid a bonus of \$1,000.00 in or about late August 2022, which on information and belief was based on certain objective metrics being met in the second quarter of 2022. Plaintiff worked overtime in the second quarter of 2022, but Defendants paid him for that overtime at 1.5 times his *base* rate of pay and failed to incorporate the bonus into Plaintiff's regular rate. On information and belief, during the relevant time period Defendants paid Incentive Pay to other non-exempt employees and, similarly, failed to incorporate Incentive Pay into the "regular rate" of pay, thereby underpaying Plaintiff's and other non-exempt employees' overtime wages.

11. Defendants have also failed to provide Plaintiff and other non-exempt employees with all statutorily mandated meal periods. While Defendants have paid some meal period premiums, Defendants failed to incorporate Incentive Pay into the “regular rate” which resulted in a failure to pay meal period premiums at Plaintiff’s and other non-exempt employees’ “regular

1 rate of compensation” as required under Labor Code § 226.7. The California Supreme Court has
2 held that the terms “regular rate of pay” used in Labor Code § 510 and “regular rate of
3 compensation” used in Labor Code § 226.7 are synonymous, and therefore, just as bonuses and
4 other remuneration must be incorporated into the “regular rate of pay” when calculating overtime
5 pay, they must also be incorporated into the “regular rate of compensation” when calculating meal
6 and rest period premiums under Labor Code § 226.7. *See Ferra v. Loews Hollywood Hotel, LLC*,
7 11 Cal.5th 858, 862 (2021) (holding “that the terms are synonymous: ‘regular rate of
8 compensation’ under section 226.7(c), like ‘regular rate of pay’ under section 510(a),
9 encompasses all nondiscretionary payments, not just hourly wages.”) When paying meal period
10 premiums, which were denoted as “Missed Meal Occurrences” on wage statements, Defendants
11 have failed to incorporate Incentive Pay and have thereby underpaid Plaintiff and other non-
12 exempt employees their meal period premium wages. For example, Plaintiff was paid multiple
13 “Missed Meal Occurrences” during the second quarter of 2022, and also was paid a bonus that
14 was earned during the second quarter of 2022, as noted above. But Defendants failed to
15 incorporate the bonus into Plaintiff’s “regular rate of compensation” and instead paid him meal
16 period premiums at his *base* rate of pay. On information and belief, Defendants have likewise
17 paid meal period premiums to other employees at their base rate of pay without incorporating
18 Incentive Pay into the “regular rate of compensation,” thereby under-paying meal period
19 premiums for Plaintiff and other non-exempt employees.

20 12. Defendants have also failed to provide meal periods and failed to pay meal period
21 premiums. Specifically, Defendants have failed to provide second meal periods on shifts over 10
22 hours. For example, Plaintiff’s time records reflect that on February 22, 2022, Plaintiff worked
23 10.98 hours but was not provided a second meal period and was not paid a meal period premium.
24 Likewise, on May 16, 2022, Plaintiff’s time records reflect that he worked 10.30 hours and was
25 not provided a second meal period and was not paid a meal period premium.

26 13. Defendants have also failed to authorize and permit all rest periods to which
27 Plaintiff and other non-exempt employees have been entitled. Specifically, Defendants have
28 failed to authorize and permit third rest periods to Plaintiff and other non-exempt employees on

shifts of over 10 hours. On those occasions when Defendants failed to authorize and permit all legally required rest periods, Defendants failed to pay rest period premium wages to Plaintiff or other non-exempt employees. On information and belief, for at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to authorize and permit all legally required rest periods.

14. As a result of Defendants' failure to pay all overtime wages, as well as Defendants' failure to pay meal and rest period premium wages, Defendants have failed to pay all wages to Plaintiff and other formerly employed non-exempt employees at the separation of their employment.

15. As a further result of Defendants' failure to pay all overtime wages, as well as Defendants' failure to pay meal and rest period premium wages, Defendants have maintained inaccurate payroll records, and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

CLASS ACTION ALLEGATIONS

16. Class Definitions: Plaintiff bring this action on behalf of himself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

a. The Overtime Class consists of all of the Defendants' current and former non-exempt employees in California, including those directly hired by Defendants and those hired through staffing agencies, who worked more than 8.0 hours in a workday and/or over 40.0 hours in a workweek, and earned Incentive Pay during a corresponding time period, at any time from four years immediately preceding the filing of this action through the present.

b. The Meal Period Premium Underpayment Class consists of all of Defendants' current and former non-exempt employees in California, including those directly hired by Defendants and those hired through staffing agencies, who received a meal period premium and also earned Incentive Pay in a corresponding time period, at any time from four years immediately preceding the filing of this action through the present.

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c. The Meal Period Class consists of all of the Defendants' current and former non-exempt employees in California, including those directly hired by Defendants and those hired through staffing agencies, who worked at least one shift in excess of 10.0 hours, at any time from four years immediately preceding the filing of this action through the present.

d. The Rest Period Class consists of all of the Defendants' current and former non-exempt employees in California, including those directly hired by Defendants and those hired through staffing agencies, who worked at least one shift in excess of 10.0 hours, at any time from four years immediately preceding the filing of this action through the present.

e. The Wage Statement Class consists of all members of the Overtime Class, Meal Period Premium Underpayment Class, Meal Period Class, and/or Rest Period Class who received a wage statement, at any time from one year immediately preceding the filing of this action through the present.

f. The Waiting Time Class consists of all members of the Overtime Class, Meal Period Premium Underpayment Class, Meal Period Class, and/or Rest Period Class, who are no longer employed by Defendants and who last worked for Defendants at any time from three years immediately preceding the filing of this action through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

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- i. Whether Defendants' payroll practices violate the applicable Labor Code provisions including, but not limited to, Sections 510 and 1194 by requiring overtime work and not paying the Overtime Class for said work according to California's overtime laws;
- ii. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;
- iii. Whether Defendants paid meal period premiums to members of the Meal Period Premium Underpayment Class at the regular rate of compensation;
- iv. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class;
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- vi. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment;

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' overtime, wage statement, meal period, rest period, and final wage policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned wages, was subject to Defendants' uniform meal and rest period policies/practices, was furnished with inaccurate wage statements and was deprived of all final wages upon his separation of employment from Defendants.

1 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
2 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
3 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
4 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class
5 actions in state and federal courts in the past and are committed to vigorously prosecuting this
6 action on behalf of the members of the Classes.

7 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
8 an important public interest in establishing minimum working conditions and standards in
9 California. These laws and labor standards protect the average working employee from
10 exploitation by employers who have the responsibility to follow the laws and who may seek to
11 take advantage of superior economic and bargaining power in setting onerous terms and
12 conditions of employment. The nature of this action and the format of laws available to Plaintiff
13 and members of the Classes make the class action format a particularly efficient and appropriate
14 procedure to redress the violations alleged herein. If each employee were required to file an
15 individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able
16 to exploit and overwhelm the limited resources of each individual plaintiff with their vastly
17 superior financial and legal resources. Moreover, requiring each member of the Classes to pursue
18 an individual remedy would discourage the assertion of lawful claims by employees who would
19 be disinclined to file an action against their former and/or current employer for real and justifiable
20 fear of retaliation and permanent damages to their careers at subsequent employment. Further, the
21 prosecution of separate actions by individual class members would create a substantial risk of
22 inconsistent or varying verdicts or adjudications with respect to the individual class members
23 against Defendants herein; and which would establish potentially incompatible standards of
24 conduct for Defendants. Further, the claims of the individual members of the Classes are not
25 sufficiently large to warrant vigorous individual prosecution considering all of the concomitant
26 costs and expenses attending thereto. As such, the Classes identified in Paragraph 16 are
27 maintainable under Code Civ. Proc. § 382 of the Code of Civil Procedure.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME WAGES**

3 **(AGAINST ALL DEFENDANTS)**

4 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 24. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
6 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
7 overtime hours worked and provide a private right of action for the failure to pay all overtime
8 compensation for overtime work performed.

9 25. At all times relevant herein, Defendants were required to properly compensate
10 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
11 Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an
12 employee “one and one-half (1½) times [the] employee’s regular rate of pay” for work in excess
13 of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours
14 on the seventh consecutive workday in a workweek. Wage Order 1, § 3 also requires an employer
15 to pay an employee double the employee’s regular rate of pay for work in excess of 12 hours in a
16 workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek.
17 Defendants caused Plaintiff and Overtime Class members to work overtime hours but did not
18 compensate them at one and one-half times (or two times) their regular rate of pay for such hours.

19 26. The foregoing policies and practices are unlawful and create entitlement to
20 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
21 premiums owing, including interest thereon, statutory penalties, and attorneys’ fees and costs of
22 suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of
23 Civil Procedure § 1021.5.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY MEAL PERIOD PREMIUMS AT REGULAR RATE OF COMPENSATION**

26 **(AGAINST ALL DEFENDANTS)**

27 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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1 28. At all relevant times, Defendants have been required to pay meal period premiums
2 at employees' "regular rate of compensation" pursuant to Labor Code § 226.7. "Regular rate of
3 compensation" is synonymous with "regular of pay" as used in Labor Code § 510. Thus, meal
4 period premiums must be calculated in the same manner as the "regular rate of pay" is calculated
5 for overtime purposes, and must incorporate the value of Incentive Pay.

6 29. As alleged herein, Defendants failed to incorporate the value of Incentive Pay, and
7 otherwise failed to accurately calculate the regular rate of compensation, when calculating meal
8 period premiums for Plaintiff and members of the Meal Period Premium Underpayment Class,
9 and thus have underpaid Plaintiff and members of the Meal Period Premium Underpayment Class
10 for their meal period premium wages due under Labor Code § 226.7.

11 30. As a result of the foregoing, Plaintiff and members of the Meal Period Premium
12 Underpayment Class are entitled to the amount of underpayment of meal period premium wages,
13 including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor
14 Code §§ 226.7, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, § 1 of
15 the California Constitution.

16 **THIRD CAUSE OF ACTION**

17 **MEAL PERIOD VIOLATIONS**

18 **(AGAINST ALL DEFENDANTS)**

19 31. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

20 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
21 failed in their affirmative obligation to provide all their hourly non-exempt employees, including
22 Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with
23 the mandates of the California Labor Code and Wage Order 1, for the reasons set forth in this
24 Complaint.

25 33. As a result, Defendants owe premium compensation for meal period violations,
26 including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 1, Labor
27 Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

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1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 35. Labor Code §§ 226.7 and 516, and Wage Order 1, § 12, establish the right of
6 employees to be authorized and permitted a rest period of at least ten (10) minutes for each four
7 (4) hour period worked, or major fraction thereof.

8 36. As alleged herein, Defendants failed to authorize and permit Plaintiff and Rest
9 Period Class members to take their legally entitled rest periods. Defendants also failed to
10 compensate Plaintiff and Rest Period Class members with a rest period premium for each rest
11 period to which they were entitled while working.

12 37. The foregoing violations create an entitlement to recovery by Plaintiff and Rest
13 Period Class members in a civil action for the unpaid amount of rest period premiums owing,
14 including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor
15 Code §§ 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, §
16 1 of the California Constitution.

17 **FIFTH CAUSE OF ACTION**

18 **WAGE STATEMENT VIOLATIONS**

19 **(AGAINST ALL DEFENDANTS)**

20 38. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
23 and the Wage Statement Class with accurate and complete itemized wage statements that
24 included, among other requirements, all wages earned, all meal and rest period premium wages
25 earned, and all rates of pay in effect during the pay period, in violation of Labor Code § 226.

26 40. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
27 with complete and accurate itemized wage statements resulted in injury, as said failures led to,
28 among other things, the non-payment of all their overtime wages and meal and rest period

premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

41. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

42. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

43. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee, or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

44. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including (but not limited to) unpaid overtime wages, and unpaid meal and rest period premium wages.

45. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

46. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of daily wages up to thirty days from the time the wages were due. Plaintiff and members of the

Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

47. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

48. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay Plaintiff and the Classes all overtime wages due, failing to provide meal periods, failure to properly pay meal period premium wages, failure to authorize and permit rest periods or pay rest period premium wages, failing to furnish accurate and complete itemized wage statements, and failing to pay all earned wages at separation of employment.

49. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself, and on behalf of the members of the Classes, seeks full restitution of monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

51. The acts complained of herein occurred within the four years immediately preceding the filing of this action.

52. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

1 **EIGHTH CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **(AGAINST ALL DEFENDANTS)**

4 53. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 54. Defendants have committed several Labor Code violations against Plaintiff and
6 other aggrieved employees. Plaintiff is an “aggrieved employee” within the meaning of Labor
7 Code § 2698 *et seq.* Plaintiff, acting on behalf of himself and other aggrieved employees, brings
8 this representative action against Defendants to recover the civil penalties due to Plaintiff, other
9 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
10 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
11 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
12 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
13 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
14 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
15 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
16 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and
17 \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay
18 period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
19 employee per pay period for those violations of the Labor Code for which no civil penalty is
20 specifically provided, based on the following Labor Code violations:

21 a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or
22 double-time compensation earned, in violation of Labor Code §§ 204, 510, 558,
23 1194, and 1198;

24 b. Failing to provide all legally required meal periods and failing to pay meal
25 period premiums to Plaintiff and other aggrieved employees at the employees’
26 respective regular rates of compensation, in violation of Labor Code §§ 204,
27 226.7, 512, 516, 558, and 1198;

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- c. Failing to authorize and permit all legally required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 204, 226.7, 516, 558, and 1198;
- d. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- e. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203; and
- f. Failing to maintain accurate records (including but not limited to records of actual hours worked) on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code § 1174.

55. On or about February 8, 2023, Plaintiff notified Defendant Zollner Electronics, Inc., via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 54 (a)-(f) above. Now that sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

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

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;

- 1 3. For an order appointing counsel for Plaintiff as counsel for the Classes;
- 2 4. Upon the First Cause of Action, for compensatory, consequential, general, and
- 3 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 4 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
- 5 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
- 6 6. Upon the Third Cause of Action, for compensatory, consequential, general, and
- 7 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
- 8 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
- 9 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;
- 10 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
- 11 226, *et seq.*;
- 12 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
- 13 Labor Code §§ 201-203;
- 14 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
- 15 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
- 16 practices declared by this Court to be in violation of Business and Professions Code § 17200, *et*
- 17 *seq.*;
- 18 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
- 19 employees, and the State of California according to proof pursuant to Labor Code § 2699,
- 20 including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
- 21 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant
- 22 to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully
- 23 withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to
- 24 Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00
- 25 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4)
- 26 \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent
- 27 violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
- 28 each initial violation and \$200.00 for each subsequent violation per employee per pay period for

1 those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to
2 Labor Code § 2699(f);

3 12. Prejudgment interest on all due and unpaid wages and other damages pursuant to
4 California Labor Code §§ 218.6, 1194(a); Civil Code § 3287; and Art. XV, § 1 of the California
5 Constitution;

6 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
7 226(e), 1194 *et seq.*, 2699(g), and Code of Civil Procedure § 1021.5; and

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

9
10 Date: April 17, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

11
12 By:



Tuvia Korobkin
Attorney for Plaintiff

13
14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

16
17
18 Dated: April 17, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

19
20 By:



Tuvia Korobkin
Attorney for Plaintiff