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10 on behalf of herself and similarly situated employees

11 **SUPERIOR COURT OF CALIFORNIA**

12 **FOR THE COUNTY OF EL DORADO**

13 _____)
14 CHRIS RUMENAPP, individually and on)
15 behalf of all others similarly situated,)

16 Plaintiff,)

17 vs.)

18 PACIFIC BELL TELEPHONE)
19 COMPANY; Does 1 through 20, inclusive,)

20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

Case No. 23CV1230

CLASS ACTION

COMPLAINT FOR DAMAGES:

1. **Violation of California Unfair Competition Law (Business & Professions Code § 17200 *et seq.***
2. **Failure to Provide Accurate Wage Statements;**
3. **Failure to Pay Overtime Wages Earned;**
4. **Waiting Time Penalties;**
5. **Failure to Pay Minimum Wage for All Hours Worked;**
6. **Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 *et seq.***

JURY TRIAL DEMANDED

1 Plaintiff CHRIS RUMENAPP (“Plaintiff”), on behalf of himself and all other similarly
2 situated employees hereby files this Complaint against Defendant PACIFIC BELL TELEPHONE
3 COMPANY.; and, Does 1 through 20 (collectively referred to as “Defendants”). Plaintiff alleges the
4 following:

5 **INTRODUCTION**

6 1. This is a class and representative action brought by Plaintiff seeking damages for
7 failure to pay minimum wages, inaccurate wage statements, failure to pay all wages owed at time of
8 termination of employment, and derivative civil and statutory penalties. Plaintiff seeks these
9 damages and penalties, plus interest and attorney’s fees, on behalf of himself and similarly situated
10 employees.

11 **JURISDICTION AND VENUE**

12 2. The El Dorado County Superior Court has jurisdiction in this matter due to alleged
13 violations of California Labor Code §§ 201-203, 226, 226.3, 1174, 2698 *et seq.*, Business and
14 Professions Code § 17200 *et seq.*

15 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some
16 of the wrongful acts and violations of law asserted herein occurred within El Dorado County.

17 **PARTIES**

18 4. Plaintiff CHRISTOPHER RUMENAPP is over the age of eighteen (18) and is a
19 resident of the State of California and an employee of Defendants.

20 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant PACIFIC
21 BELL TELEPHONE COMPANY is now and/or at all times mentioned in this Complaint a
22 California Corporation and the owner and operator of an industry, business and/or facility licensed to
23 do business and actually doing business in the State of California.

24 6. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly
25 and severally, have acted with deliberate indifference and conscious disregard to the rights of all
26 employees. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
27 were at all relevant times advised by skilled California employment law attorneys and knew the
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1 requirements of the California Labor Code with respect to employee wage statements, payment of
2 wages, and provision of meal and rest periods.

3 7. Defendants proximately caused Plaintiff and similarly situated employees to be
4 subjected to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this
5 Complaint.

6 8. Plaintiff is further informed and believes, and thereon alleges, that each of the
7 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or
8 joint venturer of the remaining defendants and was acting within the course and scope of that
9 relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the
10 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
11 remaining defendants. The true names and capacities of the defendants named herein Does 1 through
12 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who
13 therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure
14 section 474. Plaintiff will amend this complaint to show such true names and capacities of Does 1
15 through 20, inclusive, when they have been determined.

16 9. On April 12, 2023, Plaintiff filed his Labor Code § 2699.3 Private Attorney General
17 Act (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”).
18 The LWDA did not respond within 65 days of the filing of the PAGA Notice, thus authorizing
19 Plaintiff to proceed with his PAGA claim in Superior Court.

20 **CLASS ALLEGATIONS**

21 10. Plaintiff is bringing this class and PAGA action on behalf of himself and similarly
22 situated aggrieved employees who were required to report to their worksite and undergo mandatory
23 security screenings and a COVID-19 questionnaire prior to clocking in and beginning their workday.

24 11. Plaintiff brings this action, on behalf of himself and all others similarly situated, as a
25 class action pursuant to California Code of Civil Procedure section 382. The class that Plaintiff
26 seeks to represent are composed of and defined as follows:

27 All non-exempt employees who were employed by Defendant in California at any
28 time four (4) years prior to the filing of this Action up to the date that this matter is
certified as a class action.

1 12. This action has been brought and may be properly maintained as a class action,
2 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
3 defined community of interest in the litigation and the proposed classes are easily ascertainable.

4 (a) Numerosity: The Plaintiff Class is so numerous that the individual joinder of all
5 members is impracticable under the circumstances of this case. While the exact
6 number of class members is unknown to Plaintiff at this time, Plaintiff is informed
7 and believes that Defendant may have employed hundreds or thousands of individuals
8 falling within the above stated class definitions throughout the State of California
9 during the applicable statute of limitations, who were subjected to the practices
10 outlined in this Complaint. As such, joinder of all members of the Plaintiff Class is
11 not practicable.

12 (b) Common Questions Predominate: Common questions of law and fact exist as to all
13 members of the Plaintiff Class and predominate over questions that affect only
14 individual members of the class. These common questions of law and fact include,
15 without limitation, the following:

- 16 (1) Whether Defendant had a practice and policy of requiring employees
17 to complete work-related tasks prior to clocking in;
18 (2) Whether Defendant maintained the time and payroll records for its
19 employees as required under the California Labor Code;
20 (3) Whether Defendant paid all wages due to its employees at the time of
21 termination of employment;
22 (4) Whether Defendant accurately stated all required information on
23 paystubs issued to members of the Plaintiff Class.

24 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the Plaintiff
25 Class. Plaintiff also sustained damages arising out of Defendant's common course of
26 conduct in violation of the law as complained of herein. Defendant, failed to pay all
27 wages earned for time spent performing mandatory work-related tasks, failed to pay
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1 all wages due at time of termination, and failed to provide legally compliant pay stubs
2 to its employees. As a result, each putative class member will have the same basis for
3 their legal claims.

4 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
5 the putative class. Plaintiff resides in California and is an adequate representative of
6 the putative class as she has no interests that are adverse to those of absent class
7 members. Additionally, Plaintiff has retained counsel who have substantial
8 experience in complex civil litigation and wage and hour matters.

9 (e) Superiority: A class action is superior to other available means for the fair and
10 efficient adjudication of the controversy since individual joinder of all members of
11 the classes is impracticable. Class action treatment will permit a larger number of
12 similarly situated persons to prosecute their common claims in a single forum
13 simultaneously, efficiently, and without the unnecessary duplication of effort and
14 expense that numerous individual actions would engender. Further, as damages
15 suffered by each individual member of the classes may be relatively small, the
16 expenses and burden of the individual litigation would make it difficult or impossible
17 for individual members of the class to redress the wrongs done to them, and an
18 important public interest will be served by addressing the matter as a class action.
19 The cost to the court system of adjudication of such individualized litigation would be
20 substantial. Individualized litigation would also present the potential for inconsistent
21 or contradictory judgments.

22 13. Plaintiff is unaware of any difficulties that are likely to be encountered in the
23 management of this action that would preclude its maintenance as a class action.

24 **GENERAL ALLEGATIONS**

25 14. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 13 as
26 though fully set forth herein.

27 15. Defendant PACIFIC BELL TELEPHONE COMPANY provides telephone and
28 telecommunication services in California.

1 16. Plaintiff and similarly situated employees worked for Defendant as nonexempt
2 employees in California. Plaintiff has worked for Defendant from 2008 to the present as a non-
3 exempt premise technician and splicing technician, working out of Defendant's Placerville,
4 California location.

5 17. Plaintiff and similarly situated employees in California were required to report to
6 the job site, undergo a mandatory security inspection, then complete a mandatory COVID-19
7 health screening.

8 18. These steps were required everyday by Defendant before Plaintiff and similarly
9 situated employees could clock in for their shift. On many of these shifts, Plaintiff and similarly
10 situated employees performed all of this work only to be sent home because of the health
11 screening.

12 19. Defendant did not pay Plaintiff and similarly situated employees minimum wages
13 or reporting time pay for the instances on which they were required to report for work, performed
14 work, and were then sent home because of the health screening.

15 20. Nor did Defendant pay Plaintiff and similarly situated employees for the time
16 spent completing the security screening and COVID-19 questionnaire prior to clocking in and
17 completing their work shift.

18 21. As a result of these practices, Plaintiff and similarly situated employees did not
19 receive minimum wages for all hours worked, and were also denied overtime pay when earned
20 due to being forced to work off the clock.

21 22. Defendant also did not provide Plaintiff and similarly situated employees legally
22 compliant wage statements noting, among other things, total hours worked, gross wages earned,
23 the applicable hourly rates in effect during the pay period and the corresponding number of hours
24 worked at each hourly rate. For the reasons listed above, Defendant's wage statements did not
25 list all hours worked by Plaintiff and similarly situated employees.

26 23. Defendant also did not provide Plaintiff and similarly situated aggrieved
27 employees all wages owed upon their termination or within seventy-two (72) hours of their
28 separation from employment.

24. Plaintiff brings this Class Action on behalf of himself and similarly situated employees in order to fully compensate himself and Class Members for their losses incurred during the class period caused by Defendant's uniform policies and practices which failed to lawfully compensate these employees.

25. Defendant's uniform policies and practices alleged herein were unlawful, unfair and deceptive business practices whereby Defendant retained and continues to retain wages due Plaintiff and the other Class Members. Plaintiff and the other Class Members seek an injunction enjoining such conduct by Defendant in the future, relief for the named Plaintiff and the other Class Members who have been economically injured by Defendant's past and current unlawful conduct, and all other appropriate legal and equitable relief.

26. Plaintiff is informed and believes that Defendant committed numerous other violations of the California Labor Code, including but not limited to those identified in this letter. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code, whether he experienced them personally or not.

27. Defendant's uniform policies and practices to fail to provide all overtime and double time wages to Plaintiff and Class Members, to not pay minimum wages, to fail to provide all wages owed at time of termination, and not to provide compliant wage statements are evidenced by Defendant's business records.

FIRST CAUSE OF ACTION

28. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 27 as though fully set forth herein.

29. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See* Cal. Bus. and Prof. Code §§ 17200 *et seq.*

30. Defendant committed numerous violations of the California Labor Code throughout the employment relationship with Plaintiff and similarly situated employees.

31. Plaintiff is also informed and believes and thereon alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code section 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

32. As a direct and legal result of Defendant's conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution of all withheld wages as a result of its unfair business practices, including, but not limited to, public injunctive relief, pursuant to B&P Code § 17203, and interest and penalties pursuant to B&P §§ 17203, 17208, violations of Labor Code §§ 1194, 226, and 226.7, all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

SECOND CAUSE OF ACTION
(Failure to Provide Accurate Wage Statements)

33. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 32 as though fully set forth herein.

34. According to Labor Code section 226(a), an employer must provide an itemized statement to an employee, semi-monthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined

in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

35. Defendant failed to provide an itemized statement or failed to provide an accurate and complete itemized statement showing the requirements set forth in Labor Code section 226(a). Defendant failed to list on the wage statements provided to Plaintiff and similarly situated employees wage statements listing all hours worked and the applicable rates of pay and overtime and double time rates. Plaintiff alleges that Defendant failed to provide accurate itemized wage statements in accordance with Labor Code section 226(a) to all members of the Class.

36. Additionally, Plaintiff alleges he suffered injury as a result of Defendant's knowing and intentional failure to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of Labor Code section 226, subdivision (a), and Plaintiff cannot promptly and easily determine (*i.e.* a reasonable person in each Plaintiff's position would not be able to readily ascertain the information without reference to other documents or information) from the wage statement alone. Cal. Lab Code § 226(e)(2)(B)(iv).

37. Defendant's underpayment of wages also caused the calculations on the wage statements issued to Defendants' employees to be incorrect and legally noncompliant.

38. As a proximate cause of Defendant's failure to provide accurate statements, Plaintiff and Class Members were damaged and are entitled to statutory and civil penalties under the Labor Code, and attorney's fees and costs, in an amount to be proven at trial.

THIRD CAUSE OF ACTION
(Failure to Pay Overtime Wages)

39. Plaintiff incorporates by reference and re-allege paragraphs 1 through 38 as though fully set forth herein.

40. During the period Plaintiff and similarly situated employees were employed by Defendant, Defendant was required to compensate them one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. See California Labor Code §§ 510, 1194. Although Plaintiff and similarly situated employees regularly worked in excess of eight (8) hours a day and/or forty (40) hours per week, Defendant failed to pay all overtime and double time wages owed to them.

41. Defendant failed to pay overtime and double time for all hours worked over 8 hours in a day and 40 hours in a week.

42. Plaintiff and Class members were non-exempt employees under the administrative, executive, or professional exemptions of the applicable Wage Order and California Labor Code section 510.

43. Defendant's conduct described herein violates California Labor Code sections 510 and 1194, and Wage Orders. As a proximate result of Defendant's conduct, Plaintiff and Class members have been damaged and deprived of overtime wages, in an amount to be established at trial. Plaintiff now seeks these wages, attorney's fees and costs, and interest pursuant to California Labor Code section 1194.

FOURTH CAUSE OF ACTION **(Waiting Time Penalties)**

44. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 44 as though fully set forth herein.

45. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. California Labor Code § 201.

46. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. California Labor Code § 203.

47. Plaintiff and similarly situated employees did not receive all wages at their termination or separation from employment, including, but not limited to, unpaid hourly wages that Defendant underpaid, and overtime and double time which was not paid.

48. Defendant knew of its obligation to pay Plaintiff and Class Members and Defendant's failure to pay all wages was in complete disregard of their obligations. Such conduct shows Defendants' knowledge of its obligation to pay all wages owed upon termination and willful refusal.

49. As a proximate result of the Defendant's conduct, Plaintiff and Class members have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

FIFTH CAUSE OF ACTION
(Failure to Pay Minimum Wage for All Hours Worked)

50. Plaintiff hereby incorporates by reference Paragraphs 1 through 49 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

51. Defendants were required to compensate Plaintiff and similarly situated employees with at least the State’s minimum wage for all hours worked. *See* Cal. Labor Code § 1194; MW Order-2014; MW Order-2017.

52. Defendants were aware of their obligation to pay the minimum wages but failed to do so.

53. Defendants' conduct described herein violates California Labor Code section 1194, and Wage Orders. As a proximate result of Defendants' conduct, Plaintiff and the Plaintiff Class have been damaged and deprived of minimum wages, in an amount to be established at trial. Plaintiff and the Class now seek these wages, liquidated damages pursuant to California Labor Code section 1194.2, attorney's fees and costs, and interest pursuant to California Labor Code sections 1194.

SIXTH CAUSE OF ACTION
(Civil Penalties Pursuant to PAGA § 2698 *et seq.*)

54. Plaintiff hereby incorporates by reference Paragraphs 1 through 53 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

1 55. Plaintiff brings this cause of action as a proxy for the State of California and in
2 this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendant's violations of
3 the California Labor Code, including but not necessarily limited to, those Labor Code violations
4 identified above and in Plaintiff's PAGA Notice to the LWDA.

5 56. On or about April 12, 2023, Plaintiff sent written notice to the LWDA regarding
6 Defendants' violations of the California Labor Code, pursuant to Labor Code section 2698, *et*
7 *seq.*, PAGA. As of the date of the filing of this Complaint, the LWDA has not informed Plaintiff
8 whether the LWDA intends to investigate Plaintiff's PAGA claims. As such, Plaintiff has
9 exhausted his administrative remedies under PAGA and may proceed in this Court.

10 57. Plaintiff is thus entitled to recover civil penalties on behalf of the State of
11 California and all Aggrieved Employees for all violations of the Labor Code from April 12,
12 2022, through trial on this matter.

13 14 **DAMAGES**

15 WHEREFORE Plaintiff requests relief as follows:

- 16 1. A jury trial;
- 17 2. For an order certifying the class;
- 18 3. For an order certifying Plaintiff's counsel as class counsel;
- 19 4. For an order appointing Plaintiff as class representative;
- 20 5. For penalties under the California Labor Code according to proof allowed by law;
- 21 6. For compensatory damages, including, but not limited to, unpaid wages, plus
22 interest, according to proof allowed by law;
- 23 7. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's
24 fees;
- 25 8. For injunctive relief;
- 26 9. For an award of prejudgment and post-judgment interest; and
- 27 10. For an award to Plaintiff of such other and further relief as the Court deems just and
28 proper.

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2 Dated: July 24, 2023

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4 **Castle Law: California Employment Counsel, PC**

5 By: 
6 Timothy B. Del Castillo
7 Kent L. Bradbury
8 Attorneys for Plaintiff CHRIS RUMENAPP and the
9 Class

10 **JURY TRIAL DEMAND**

11 Plaintiff hereby demands a trial by jury.

12 Dated: July 24, 2023

13 **Castle Law: California Employment Counsel, PC**

14 By: 
15 Timothy B. Del Castillo
16 Kent L. Bradbury
17 Attorneys for Plaintiff CHRIS RUMENAPP and the
18 Class
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