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Attorneys for Plaintiff Denise Jacobs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF STANISLAUS

DENISE JACOBS, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

HYDRAULIC CONTROLS, INC.; and
DOES 1-100, inclusive,

Defendants.

Case No.: CV-23-003469

FIRST AMENDED CLASS ACTION
COMPLAINT FOR:

1. FAILURE TO PROPERLY CALCULATE AND PAY OVERTIME
2. FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS
3. FAILURE TO PAY ALL WAGES UPON SEPARATION OF EMPLOYMENT
4. UNLAWFUL BUSINESS PRACTICES
5. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")

JURY TRIAL DEMANDED

Plaintiff Denise Jacobs brings this class action against Hydraulic Controls, Inc. and Does 1 through 100, for violations of the California Labor Code and the Business and Professions Code.

PARTIES

1. Denise Jacobs ("Jacobs" or "Plaintiff") is and at all times relevant herein was employed in Stanislaus County, California, and was an "employee" as defined by the California Labor Code ("Labor Code") and the applicable California Industrial Wage Commission ("IWC") Order(s).

2. Hydraulic Controls, Inc. ("Employer", "Defendant" or "Hydraulic Controls") is a corporation, organized and existing under the laws of California, with its principal place of business located in Emeryville, California and which does business within California.

3. At all times relevant herein, Defendant has been an “employer” as defined by the California Labor Code (“Labor Code”) and the applicable California Industrial Wage Commission (“IWC”) Order(s) and was Jacobs’ employer.

4. Hydraulic Controls and Does 1-100 are collectively referred to as Defendants.

5. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sue such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

6. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

JURISDICTION AND VENUE

7. This Court is the proper Court, and this action is properly filed in the Superior Court of California for the County of Stanislaus pursuant to Code of Civil Procedure section 385(a) because Plaintiff performed work for Hydraulic Controls within Stanislaus County and the violations against Plaintiff were committed in Stanislaus County. Plaintiff hereby demands a jury trial.

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GENERAL ALLEGATIONS

8. Plaintiff worked for Hydraulic Controls in its Modesto, California facility as a non-exempt, hourly employee from approximately 2017 through October 11, 2022, when Plaintiff's employment was terminated by Hydraulic Controls.

9. Hydraulic Controls represents itself to the public as a business that specializes in the application of hydraulics to mobile and industrial applications, provides components for a wide variety of pneumatic applications, builds hydraulic power units, and runs an in-house repair department at each of its branches.

10. Hydraulic Controls operates 14 separate branch locations, including 10 within California.

11. Throughout her employment with Hydraulic Controls, Plaintiff was properly classified as a non-exempt employee. As such, she was entitled to be paid for every hour worked, overtime as appropriate, and was entitled to meal and rest periods as required by California law.

12. At all relevant times herein, Plaintiff and Defendant's other non-exempt, hourly employees were eligible to earn, and did earn, commissions, non-discretionary bonuses, and other items of compensation that were required to be factored into these employees' regular rate of pay for purposes of overtime compensation.

13. The non-discretionary bonuses, commissions, and other items of compensation to which Plaintiff and Defendants other non-exempt employees were eligible included, but were not limited to, "Incentive" and "Safety". See **Exhibits 1 and 2**.¹

14. However, Defendant failed to incorporate these commissions, non-discretionary bonuses and other items of compensation into Plaintiff and other employees' regular rates of pay when paying overtime.

15. For example, Plaintiff was paid a \$300.00 non-discretionary incentive bonus on September 12, 2022. The wage statement issued to Plaintiff identifying payment of the incentive bonus states that it was for the period of August 1, 2022, through August 31, 2022. See Exhibit 1. Plaintiff

¹ **Exhibits 1-3** is incorporated by this reference as though fully set forth herein. Some Exhibits have been reduced and/or redacted due to their size and content.

1 also worked overtime during the month of August 2022 but was paid that overtime at only one and one
2 half times her base rate of pay.

3 16. As another example, Plaintiff was paid a non-discretionary safety bonus of \$43.32
4 during the pay period covering August 29, 2022, through September 12, 2022. See **Exhibit 2**. Plaintiff
5 also worked 1.32 hours of overtime during that same pay period; however, Plaintiff's overtime pay was
6 exactly one- and one-half times her base rate of pay. Defendant did not incorporate Plaintiff's safety
7 bonus into her regular rate of pay in violation of California law. See **Exhibit 3**.

8 17. Similarly, Defendant failed to incorporate non-discretionary bonuses, commissions, and
9 other items of compensation into Plaintiff's and other non-exempt employees' regular rates of pay
10 when paying sick pay. Rather than paying sick pay at Plaintiff's and other non-exempt employees'
11 regular rates of pay, Defendant paid sick time to Plaintiff and other non-exempt employees at their base
12 rate of pay in violation of California law.

13 18. Defendant's failure to incorporate non-discretionary bonuses, commissions, and other
14 items of compensation into Plaintiff's and other non-exempt employees' regular rates of pay for
15 purposes of overtime and payment of sick pay is pursuant to its uniform, long-standing practice and
16 continues through the present.

17 19. Because of the violations set forth above, the wage statements furnished by Hydraulic
18 Controls to Plaintiff and its non-exempt California employees violate California Labor Code section
19 226(a) insofar as they fail to accurately show:

- 20 a. The gross wages earned, in violation of section 226(a)(1);
- 21 b. The total hours worked, in violation of section 226(a)(2);
- 22 c. The net wages earned, in violation of section 226(a)(5); and
- 23 d. All applicable hourly rates in effect during the pay period and the corresponding
24 number of hours worked at each hourly rate in violation of section 226(a)(9).

25 20. Defendants were, at all times relevant herein, aware of the requirements of California
26 Labor Code section 226.

27 21. Defendants have, at all times relevant herein, furnished wage statements to each of its
28 California employees pursuant to an established set of policies, procedures and practices.

1 22. Plaintiff and Defendants' other California employees, both current and former, have
2 suffered injury as a result of Defendants' knowing and intentional failure to comply with California
3 Labor Code section 226(a) and its subdivisions as outlined herein.

4 23. Plaintiff and Defendants' other non-exempt California employees, both current and
5 former, were unable to promptly and easily determine their gross wages earned from the wage
6 statements furnished.

7 24. Plaintiff and Defendants' other non-exempt California employees, both current and
8 former, have suffered injury as a result of Defendants' knowing and intentional failure to furnish wage
9 statements accurately showing the gross wages earned by them in violation of California Labor Code
10 section 226(a)(1).

11 25. Plaintiff and Defendants' other non-exempt California employees, both current and
12 former, have suffered injury as a result of Defendants' knowing and intentional failure to furnish wage
13 statements accurately showing the total hours worked by them in violation of California Labor Code
14 section 226(a)(2).

15 26. Plaintiff and Defendants' other non-exempt California employees, both current and
16 former, were unable to promptly and easily determine their net wages earned from the wage statements
17 furnished.

18 27. Plaintiff and Defendants' other non-exempt California employees, both current and
19 former, have suffered injury as a result of Defendants' knowing and intentional failure to furnish wage
20 statements accurately showing the net wages earned by them in violation of California Labor Code
21 section 226(a)(5).

22 28. Plaintiff and Defendants' other non-exempt California employees, both current and
23 former, were unable to promptly and easily determine each applicable hourly rate and the
24 corresponding number of hours worked at each.

25 29. Plaintiff and Defendants' other non-exempt California employees, both current and
26 former, have suffered injury as a result of Defendants' knowing and intentional failure to furnish wage
27 statements accurately showing all applicable hourly rates in effect during the pay period and the
28 corresponding number of hours worked at each hourly rate in violation of section 226(a)(9).

30. Because Defendant fails to pay its non-exempt California employees overtime at the correct rate of pay and sick pay at the correct rate of pay, neither they nor Plaintiff have been timely paid all wages due and owing to them each pay period and at the end of their employment.

31. From at least four years prior to the filing of this action, Defendants have adopted and employed unfair business practices. These unfair business practices include, but are not limited to, failing to properly pay all overtime wages due and failing to properly calculate and pay redeemed sick time pay.

CLASS ACTION ALLEGATIONS

32. Plaintiff seeks to maintain this action as a class action as to the First through Fourth Causes of Action. Plaintiff brings this action, on behalf of herself and all others similarly situated, as a class action pursuant to Code of Civil Procedure 382. The putative classes which Plaintiff seeks to represent consist of the following:

- a. All current and former non-exempt California employees of Defendants who worked overtime during a workweek in any period during which they earned non-discretionary bonuses, commissions, and/or other items of compensation on at least one occasion from June 23, 2019, to the date of filing of this Action to the date of trial (the “Overtime Class”);
- b. All members of the Non-Exempt Class who redeemed paid sick leave during a workweek during a workweek in any period in which they earned non-discretionary bonuses, commissions, and/or other items of compensation on at least one occasion from June 23, 2019, to the date of filing of this Action to the date of trial (the “Sick Pay Class”);
- c. All members of the Overtime Class and Sick Pay Class whose employment with Defendant ended at any time between June 23, 2020, to the date of filing of this Action through the date of trial (the “Waiting Time Penalty Sub-Class”);
- d. All members of the Overtime Class and Sick Pay Class who were issued one or more wage statements from June 23, 2022, to the date of filing of this Action through the date of trial (the “Wage Statement Sub-Class”).

The Overtime Class, Sick Pay Class, Waiting Time Penalty Sub-Class, and Wage Statement Sub-Class are collectively referred to as the Class.

1 33. The class of persons is so numerous that joinder of all members is impracticable, and the
2 disposition of their claims in a class action is a benefit to the parties and to the Court. Plaintiff is
3 informed and believes, and based thereon alleges, that Defendants employ/employed over 100
4 employees who satisfy the class definition. Although the exact number and identity of class members
5 is not presently known, they can be identified in Defendants' records through coordinated discovery
6 pursuant to this class action.

7 34. This action may be maintained as a class because the questions of law and fact which are
8 common to class members clearly predominate over any questions affecting only individual members
9 and because a class action is superior to other available methods for adjudicating the controversy.

10 35. There are numerous common questions of law and fact arising out of Defendants'
11 conduct. This class action focuses on Defendants': (a) systemic failure to properly calculate and pay
12 for all overtime worked; (b) systemic failure to pay sick pay at the required rates; (c) systematic failure
13 to comply with Labor Code section 226(a); and (d) systemic failure to pay timely pay employees all
14 wages owed at termination or within 72 hours of resignation.

15 36. Furthermore, common questions of fact and law predominate over any questions
16 affecting only individual members of the class. The predominating common or class-wide questions of
17 law and fact include the following:

- 18 a. Whether commissions provided to the Class were required to be included in
- 19 determining regular rate for overtime and redeemed sick pay;
- 20 b. Whether Defendants were required to consider certain other items of
- 21 remuneration when determining the regular rate of pay for overtime and
- 22 redeemed sick pay;
- 23 c. Whether Defendants failed to pay their non-exempt California employees for all
- 24 overtime worked;
- 25 d. Whether Defendants failed to pay sick time at required rates of pay;
- 26 e. Whether the wage statements Defendants furnished to their California employees
- 27 comply with Labor Code section 226;
- 28 f. Whether the alleged violations constitute unfair business practices;

1 g. Whether the Class is entitled to injunctive relief; and

2 h. Whether the Class is entitled to unpaid wages, statutory penalties and/or
3 restitutionary relief, and the amount of the same.

4 37. Plaintiff's claims are typical of the claims of the members of the Class as a whole, all of
5 whom have sustained and/or will sustain damage and injury as a proximate and/or legal result of the
6 alleged violations by Defendants. Plaintiff's claims are typical of those of the Class because
7 Defendants subjected Plaintiff and each member of the Class to the same violations alleged herein.

8 38. The defenses of Defendants, to the extent that such defenses apply, are applicable
9 generally to the whole Class and are not distinguishable as to the proposed class members.

10 39. Plaintiff will fairly and adequately protect the interests of all members of the Class, and
11 has retained attorneys with extensive experience in litigation, including class and representative actions.
12 Plaintiff has no interests that conflict with those of the Class. Plaintiff is able to fairly and adequately
13 protect the interests of all members of the class because it is in her best interest to prosecute the claims
14 alleged herein in order to obtain the full compensation due her and the other class members.

15 40. A class action is superior to any other method available for fairly and efficiently
16 adjudicating the controversy because 1) joinder of individual class members is not practicable, 2)
17 litigating the claims of individual class members would be unnecessarily costly and burdensome and
18 would deter individual claims, 3) litigating the claims of individual class members would create a risk
19 of inconsistent or varying adjudications that would establish incompatible standards of conduct for
20 Defendants, 4) class members still working for Defendants may be fearful of retaliation if they were to
21 bring individual claims, 5) class members would be discouraged from pursuing individual claims
22 because the damages available to them are relatively small, and 6) public policy encourages the use of
23 the class actions to enforce employment laws and protect individuals who, by virtue of their
24 subordinate position, are particularly vulnerable.

25 41. Judicial economy will be served by maintenance of this lawsuit as a class action. To
26 process numerous virtually identical individual cases will significantly increase the expense on the
27 Court, the class members, and Defendants, all while unnecessarily delaying the resolution of this
28 matter. There are no obstacles to effective and efficient management of this lawsuit as a class action by

1 this Court and doing so will provide multiple benefits to the litigating parties including, but not limited
2 to, efficiency, economy, and uniform adjudication with consistent results.

3 42. Notice of a certified class action and any result or resolution of the litigation can be
4 provided to class members by mail, email, publication, or such other methods of notice as deemed
5 appropriate by the Court.

6 **FIRST CAUSE OF ACTION**
7 **VIOLATION OF CALIFORNIA LABOR CODE §§ 510 & 1198**
8 **(Failure to Pay Overtime)**
9 **Against Defendants**

10 43. Plaintiff hereby realleges and incorporates by reference each and every allegation as
11 though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this
12 cause of action.

13 44. Pursuant to California Labor Code section 510, any work in excess of eight hours in one
14 workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on
15 the seventh day of work in any one workweek shall be compensated at the rate of no less than one and
16 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall
17 be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition,
18 any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate
19 of no less than twice the regular rate of pay of an employee.

20 45. Pursuant to California Labor Code section 1198, the maximum hours of work and
21 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
22 standard conditions of labor for employees and the employment of any employee for longer hours than
23 those fixed by the commission or under conditions of labor prohibited by the order is unlawful.

24 46. The “regular rate of pay” includes all remuneration for employment paid to the
25 employee and includes, but is not limited to, hourly earnings, salary, piece work earnings,
26 commissions, non-discretionary bonuses, and the value of meals and lodging. See 29 U.S.C. § 207(e);
27 DLSE Enforcement Policies and Interpretations Manual Section 49.

28 47. During the relevant time period, Plaintiff and Defendants’ other non-exempt California
employees regularly worked overtime.

1 48. During the relevant time period, Plaintiff and Defendants’ other non-exempt California
2 employees also earned non-discretionary bonuses, commissions, and other remuneration.

3 49. During the relevant time period, Defendants intentionally and willfully failed to pay the
4 proper overtime wages due to Plaintiff and their other non-exempt California employees because
5 Defendants failed to include all remuneration when determining the “regular rate of pay”.

6 50. Wherefore, Plaintiff and the other members of the Overtime Class have been injured as
7 set forth above and request relief as hereafter provided.

8 **SECOND CAUSE OF ACTION**
9 **VIOLATION OF LABOR CODE § 226(a)**
10 **(Failure to Furnish Accurate Itemized Wage Statements)**
 Against Defendants

11 51. Plaintiff hereby realleges and incorporates by reference each and every allegation as
12 though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this
13 cause of action.

14 52. Pursuant to California Labor Code section 226(a) “every employer shall, semimonthly
15 or at the time of each payment of wages, furnish each of his or her employees, either as a detachable
16 part of the check, draft, or voucher paying the employee’s wages, or separately when the wages are
17 paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages
18 earned, (2) total hours worked by the employee [. . .], (3) the number of piece-rate units earned and any
19 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages
20 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
21 employee and only the last four digits of his or her social security number or an employee identification
22 number, (8) the name and address of the legal entity that is the employer [. . .], (9) all applicable hourly
23 rates in effect during the pay period and corresponding number of hours worked at each hourly rate by
24 the employee and, if the employer is a temporary services employer [. . .], the rate of pay and the total
25 hours worked for each temporary services assignment.”

26 53. An employee suffering injury as a result of the knowing and intentional failure by an
27 employer to comply with Labor Code section 226(a) is entitled to recover the greater of all actual
28 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred

1 dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the aggregate
2 penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's
3 fees. Labor Code § 226(e)(1).

4 54. An employee is deemed to suffer injury if the employer fails to provide a wage
5 statement or if the employer fails to provide accurate and complete information as required by any one
6 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
7 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
8 during the pay period or any of the other information required to be provided pursuant to Labor Code
9 section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the name
10 and address of the employer and iv) the name of the employee and the last four digits of his or her
11 social security number or employee identification number. Labor Code § 226(e)(2)(A) and (B)(i)-(iv).
12 "Promptly and easily determine" means a reasonable person would be able to readily ascertain the
13 information without reference to other documents or information. Labor Code § 226(e)(2)(C).

14 55. As set forth above, Defendants intentionally and willfully failed to furnish accurate
15 itemized wage statements which complied with Labor Code section 226.

16 56. Wherefore, Plaintiff and the other members of the Wage Statement Sub-Class have been
17 injured as set forth above and request relief as hereafter provided.

18 **THIRD CAUSE OF ACTION**
19 **VIOLATION OF LABOR CODE SECTION 200 ET SEQ.**
20 **(Failure to Pay Wages Upon Cessation of Employment)**
Against All Defendants

21 57. Plaintiff hereby realleges and incorporates by reference each and every allegation as
22 though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this
23 cause of action.

24 58. Labor Code section 201 requires an employer, when discharging an employee, to
25 immediately pay the wages earned and unpaid at the time of discharge. Labor Code section 202
26 mandates that employers provide all wages within seventy-two (72) hours of an employee
27 voluntarily leaving employment unless the employee provides more than seventy-two (72) hours'
28 notice.

1 59. During the relevant time, Defendants unlawfully withheld overtime and sick pay
2 wages as a result of their uniform policy, pattern, and practice of failing to pay overtime and sick
3 pay at the “regular rate of pay”; including failing to include non-discretionary bonuses and other
4 remuneration when determining the rate to compensate members of the Overtime Class and the
5 Sick Pay Class for overtime and redeemed sick pay, respectively.

6 60. Since Defendants failed to pay Plaintiff and other members of the Overtime Class
7 and the Sick Pay Class all wages due and owing during their employment, there were necessarily
8 additional wages outstanding at the time of separation. As a result, Plaintiff and the other members
9 of the Overtime Class and the Sick Pay Class were not paid all wages due and owing at
10 separation—those wages remain outstanding.

11 61. Labor Code section 203(a) provides a statutory penalty of up to 30 days wages.

12 62. As a direct and proximate result of Defendants’ misconduct, Plaintiff and the
13 members of the Waiting Time Penalty Sub-Class have been denied wages and benefits.

14 63. Wherefore, Plaintiff and the members of the Waiting Time Penalty Sub-Class have
15 been damaged as set forth above and request relief as hereafter provided.

16 **FOURTH CAUSE OF ACTION**
17 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200 *ET***
18 ***SEQ.***
19 **(Unfair Business Practices)**
20 **Against Defendants**

21 64. Plaintiff hereby realleges and incorporates by reference each and every allegation as
22 though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this
23 cause of action.

24 65. The statutory violations, as alleged above, are unfair business practices within the
25 meaning of the Unfair Competition Law (Business and Professions Code sections 17200 *et seq*), and
26 include, but are not limited to failing to properly pay for all hours worked (including separately
27 compensating for rest/recovery periods and non-productive time), failing to properly calculate and pay
28 overtime, failing to pay non-exempt California employees sick pay at the appropriate rates, and failing
to pay employees all wages due and owing at the time of separation.

1 66. These violations resulted in actual injury to Plaintiff and the other members of the
2 Overtime Class and Sick Pay Class in the form of wages that were improperly withheld and
3 retained by Defendants.

4 67. Wherefore, Plaintiff and the other members of the Overtime Class and Sick Pay
5 Class have been injured as set forth above and request relief as hereafter provided.

6 68. Plaintiff requests that the court order restitution by Defendants to Plaintiff and the
7 other members of the Overtime Class and Sick Pay Class with interest thereon.

8 69. Plaintiff is informed and believes that Defendants are continuing to treat members
9 of the Overtime Class and Sick Pay Class unlawfully and will continue to do so unless enjoined by
10 this Court.

11 70. Wherefore, Plaintiff and the other members of the Overtime Class and Sick Pay Class
12 have been damaged as set forth above and request relief as hereafter provided.

13 **FIFTH CAUSE OF ACTION**
14 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”)**
 Against Defendants

15 71. Plaintiff hereby realleges and incorporate by reference each and every allegation as
16 though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this
17 cause of action.

18 72. Pursuant to the provisions of Labor Code § 2699.3, an aggrieved employee may
19 pursue a civil action arising under the California Private Attorneys General Act of 2004 (“PAGA”)
20 after the following requirements have been met:

21 a. The aggrieved employee shall give written notice by certified mail to the
22 LWDA and the employer (hereinafter “Employee’s Notice”) of the specific provisions of the
23 Labor Code alleged to have been violated, including the facts and theories to support the
24 alleged violations;

25 b. The LWDA shall provide notice (hereinafter “LWDA’s Notice”) to the
26 employer and the aggrieved employee by certified mail that it does not intend to investigate
27 the alleged violation within 60 calendar days of the postmark date of the Employee’s Notice.
28 Upon receipt of the LWDA’s Notice, or if the LWDA does not provide notice within 65

1 calendar days of the postmark date of the Employee's Notice, the aggrieved employee may
2 commence a civil action pursuant to Labor § 2699 to recover civil penalties in addition to any
3 other penalties to which the employee may be entitled.

4 73. For reasons set forth above, Plaintiff is an aggrieved employee as she has been
5 subjected to one or more violations of the California Labor Code.

6 74. On June 21, 2023, Plaintiff electronically filed an Employee's Notice with the
7 LWDA and served the same on Defendant by certified mail. The June 21, 2023, Employee's
8 Notice is attached hereto as **Exhibit 4**, and is incorporated by this reference.

9 75. As of today's date, more than 65 days have passed without the LWDA providing
10 any LWDA Notice that it intends to investigate the allegations in the notices. Accordingly,
11 Plaintiff has satisfied the administrative prerequisites under Labor Code § 2699.3 in effect at the
12 time of the postmark of her notice to bring a civil action to recover penalties against Defendants
13 under the PAGA.

14 76. As set forth in detail in **Exhibit 4**, within the relevant time period, including the past
15 year and 65 days and continuing, and in accordance with uniform policy, Defendants have violated
16 the Labor Code as to Plaintiff and other former and current non-exempt employees, including
17 Labor Code Sections 201, 202, 204, 226(a)(1), 226(a)(5), 226(a)(9), and 510.

18 77. Wherefore, Plaintiff prays for relief as set forth below.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

- 21 1. That this Court certify the Classes and Sub-Classes outlined herein;
- 22 2. That this Court appoint Plaintiff as the representative of the Class;
- 23 3. That this Court appoint Mayall Hurley, P.C. as Class Counsel;
- 24 4. That this Court award actual, compensatory, special, and general damages as well as
25 restitutionary relief to Plaintiff and the members of the Class;
- 26 5. That this Court award injunctive relief, including that available under Labor Code
27 section 226(h) and Business and Professions Code Section 17203;
- 28

- 1 6. That this Court award penalties and liquidated damages including, but not limited to,
2 those available under Labor Code sections 203 and 226;
3 7. That this Court award civil penalties pursuant to PAGA, including but not limited to
4 those available under Labor Code sections 210, 226.3, 256, 558, and 2699(f).
5 8. That this Court award statutory attorneys' fees and costs, including those available under
6 Labor Code sections 218.5, 226(e)(1), and 2699(g), as well as Code of Civil Procedure
7 section 1021.5;
8 9. That this Court award prejudgment and post-judgment interest according to any
9 applicable provision of law or as otherwise permitted by law; and
10 10. That this Court award such other and further relief as the court deems just and proper.

11
12 **DATED:** August 28, 2023

MAYALL HURLEY P.C.

13
14 By _____

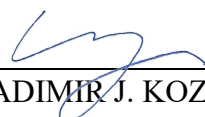

VLADIMIR J. KOZINA
WILLIAM J. GORHAM, III
ROBERT J. WASSERMAN
Attorneys for Plaintiff and the Putative Class

Exhibit 1

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Done

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X9E 004555 018 0000370083 1

HYDRAULIC CONTROLS, INC.
4700 SAN PABLO AVE.
EMERYVILLE, CA 94608

Earnings Statement



Period Beginning: 08/01/2022
Period Ending: 08/31/2022
Pay Date: 09/12/2022



DENISE M. JACOBS



Earnings	rate	hours	this period	year to date
Incentive			300.00	2,100.00
Regular				14,407.20
Overtime				1,459.85
Ca Spsl 22				429.75
Holiday				240.00
Pd Med Appt				9.75
Safety				86.64
Sick				390.45
Vacation				598.20
Gross Pay			\$300.00	19,721.84

Other Benefits and Information	this period	total to date
401K Match		341.01
CA Spsl Used		28.65
Sick Taken		26.03
Vac Taken		39.88

Important Notes
510-658-8300
BASIS OF PAY: HOURLY

Deductions	Statutory		
	Social Security Tax	-18.60	1,183.51
	Medicare Tax	-4.35	276.79
	CA SDI Tax	-3.30	209.98
	Federal Income Tax		910.52
	CA State Income Tax		257.26
	Other		
	Medical		633.00
	Roth		227.34
	401K		1,136.69
	Net Pay	\$273.75	
	Checking	-273.75	
	Net Check	\$0.00	

Your federal taxable wages this period are \$300.00

© 2002 ADP, Inc.

HYDRAULIC CONTROLS, INC.
4700 SAN PABLO AVE.
EMERYVILLE, CA 94608

Advice number: 00000370083
Pay date: 09/12/2022

Deposited to the account of	account number	transit ABA	amount
DENISE M. JACOBS		XXXX XXXX	\$273.75

THIS IS NOT A CHECK

NON-NEGOTIABLE



Exhibit 2

CO. FILE DEPT. CLOCK VCHR. NO. 030
X9E 004555 018 0000374231 2

HYDRAULIC CONTROLS, INC.
4700 SAN PABLO AVE.
EMERYVILLE, CA 94608

Earnings Statement



Period Beginning: 08/29/2022
Period Ending: 09/12/2022
Pay Date: 09/15/2022

DENISE M. JACOBS

Earnings	rate	hours	this period	year to date
Safety			43.32	129.96
Regular				15,577.95
Overtime				1,489.55
Ca Spsl 22				429.75
Holiday				360.00
Incentive				2,100.00
Makeup Time				30.00
Pd Med Appt				9.75
Sick				390.45
Vacation				598.20
Gross Pay			\$43.32	21,115.61

Your federal taxable wages this period are \$43.32

Other Benefits and Information	this period	total to date
401K Match		341.01
CA Spsl Used		28.65
Sick Taken		26.03
Vac Taken		39.88

Important Notes
510-658-8300

Deductions	Statutory		year to date
	Social Security Tax	-2.69	1,267.04
	Medicare Tax	-0.62	296.32
	CA SDI Tax	-0.48	224.80
	Federal Income Tax		993.69
	CA State Income Tax		281.29
	Other		
	Medical		679.50
	Roth		227.34
	401K		1,136.69
	Net Pay	\$39.53	
	Checking	-39.53	
	Net Check	\$0.00	

BASIS OF PAY: HOURLY

HYDRAULIC CONTROLS, INC.
4700 SAN PABLO AVE.
EMERYVILLE, CA 94608

Advice number: 00000374231
Pay date: 09/15/2022

Deposited to the account of	account number	transit ABA	amount
DENISE M. JACOBS		XXXX XXXX	\$39.53

THIS IS NOT A CHECK

NON-NEGOTIABLE

Exhibit 3

Done

CO.	FILE	DEPT.	CLOCK	VCHR. NO.	030
0000	000000	000	0000000000	0000000000	1

HYDRAULIC CONTROLS, INC.
4700 10TH STREET AVE.
EMERYVILLE, CA 94608

Earnings Statement



Period Beginning: 08/29/2022
Period Ending: 09/12/2022
Pay Date: 09/15/2022

DENISE M. JACOBS

Earnings	rate	hours	this period	year to date
Regular	15.0000	78.05	1,170.75	15,577.95
Overtime	22.5000	1.32	29.70	1,489.55
Holiday	15.0000	8.00	120.00	360.00
Makeup Time	15.0000	2.00	30.00	30.00
Ca Spst 22				429.75
Incentive				2,100.00
Pd Med Appt				9.75
Safety				86.64
Sick				390.45
Vacation				598.20
Gross Pay			\$1,350.45	21,072.29

Deductions	Statutory	
	Federal Income Tax	-83 .17
	Social Security Tax	-80 .84
	Medicare Tax	-18 .91
	CA State Income Tax	-24 .03
	CA SDI Tax	-14 .34
	Other	
	Medical	-46 .50*
	Roth	
	401K	
	Net Pay	\$1,082.66
	Checking	-1 ,082 .66
	Net Check	\$0.00

* Excluded from federal taxable wages

Your federal taxable wages this period are \$1,303.95

Other Benefits and Information	this period	total to date
Sick Balance	4.05	
Vacation Balanc	6.57	
401K Match		341.01
Totl Hrs Worked	81.37	
CA Spsl Used		28.65
Sick Taken		26.03
Vac Taken		39.88

Important Notes

510-658-8300

BASIS OF PAY: HOURLY

HYDRAULIC CONTROLS, INC.
4700 SAN PABLO AVE.
EMERYVILLE, CA 94608

Advice number: 00000374230
Pay date: 09/15/2022

Deposited to the account of	account number	transit	ABA	amount
DENISE M. JACOBS		XXXX	XXXX	\$1,082.66

HYDRAULIC CONTROLS, INC.
4700 SAN PABLO AVE.
EMERYVILLE, CA 94608

Advice number:
Pay date:

Deposited to the account of _____ account number _____
DENISE M. JACOBS

THIS IS NOT A CHECK

NON

NON-NEGOTIABLE

Exhibit 4

NORTHERN CALIFORNIA
118 WEST OAK STREET
LODI, CALIFORNIA 95240
[BY APPT. ONLY – NO SERVICE ACCEPTED]
♦
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207
SOUTHERN CALIFORNIA
360 EAST 2ND STREET, SUITE 800
LOS ANGELES, CALIFORNIA 90012
[BY APPT. ONLY – NO SERVICE ACCEPTED]

LAW OFFICES OF
MAYALL HURLEY
A PROFESSIONAL CORPORATION
♦
112 SOUTH CHURCH STREET
LODI, CALIFORNIA 95240
TELEPHONE: (209) 477-3833
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM, III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

June 21, 2023

SENT VIA ONLINE FILING (<https://dir.tfaforms.net/308>)

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Hydraulics Control, Inc.
P.O. Box 8007
Emeryville, CA 94662

CT Corporation System
Agent for Service of Process,
Hydraulic Controls, Inc.
330 N. Brand Blvd.
Glendale, CA 91203

Re: Denise Jacobs

To Whom It May Concern:

This firm represents Denise Jacobs (“Jacobs”) in relation to her prior employment with Hydraulic Controls, Inc. (“Employer”) in California. In accordance with California Labor Code section 2699.3, this letter shall serve as Ms. Jacob’s written notice to the Labor and Workforce Development Agency (“LWDA”) and Employer regarding the following violations, and facts and theories supporting the violations, on Ms. Jacob’s behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Employer.

During the prior year and beyond, Employer has failed to do all of the following with respect to Ms. Jacobs and its other current and former non-exempt employees in violation of the California Labor Code:

1. Pay overtime at Ms. Jacobs’ and other current and former non-exempt employee’s regular rates of pay in violation of Labor Code section 510. Ms. Jacobs and other current and former employees of Employer were entitled to, and received, non-discretionary bonuses, commissions, and other items of compensation. However, these non-discretionary bonuses, commissions, and other items of compensation were

not factored into the regular rate of pay of Employer's non-exempt employees for purposes of overtime compensation, in violation of Labor Code section 510.

- a. For example, Ms. Jacobs and Employer's other non-exempt employees were eligible to earn, and did earn, a non-discretionary, safety bonus that was paid to employees. However, this safety bonus was not incorporated into Ms. Jacobs' overtime pay during the period she earned said bonuses. *See Exhibit 1*, wage statements furnished to Ms. Jacobs by Employer.
 - b. As another example, Ms. Jacobs and Employer's other non-exempt employees were also eligible to earn, and did earn, monthly non-discretionary "incentive" bonuses. *See Exhibit 1*, wage statements. However, when Ms. Jacobs and other non-exempt employees earned this bonus, it was not factored into their regular rates of pay for purposes of overtime compensation.
2. Timely pay wages in violation of Labor Code § 204.
 - a. Labor Code section 204 requires that all wages earned by any person in any employment are due and payable twice during each calendar month on paydays designated by the employer. Labor Code section 204 also requires an employer to pay employees for overtime work no later than the payday for the next regular payroll period. Because Employer failed to incorporate non-discretionary bonuses into Ms. Jacobs' and its other current and former non-exempt employees' regular rates of pay, and thereby underpaid them overtime wages and sick pay, which have still not been paid to date, Employer violated the provisions of Labor Code section 204.
 3. Pay all wages at termination of employment or within 72 hours of resignation in violation of Labor Code §§ 201 and 202.
 - a. Labor Code section 201 requires that all wages earned but unpaid be paid to an employee upon termination of employment. Labor Code section 202 requires that all wages earned but unpaid be paid to an employee within 72 hours of resignation. Because Employer failed to incorporate non-discretionary bonuses into Ms. Jacobs' and its other current and former non-exempt employees' regular rates of pay, it thereby underpaid them overtime wages and sick time pay. *See Exhibit 1*. These wages still have not been paid to date, thus Employer violated Labor Code sections 201 and/or 202 as to Ms. Jacobs and its former non-exempt employees.

Labor and Workforce Development Agency
Hydraulic Controls, Inc.
Re: Denise Jacobs
June 21, 2023
Page 3 of 3

4. Furnish accurate itemized wage statements in violation of Labor Code § 226(a).

- a. Because Employer failed to properly pay overtime and sick time pay to its non-exempt employees, the wage statements furnished to Ms. Jacobs and Employers' other non-exempt employees failed to accurately state the gross and net wages earned and all applicable rates of pay and the corresponding number of hours worked at each rate, in violation of Labor Code sections 226(a)(1), (a)(5), and (a)(9).

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Ms. Jacobs intends to file a civil complaint against Employer pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698 – 2699.5), on her behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention to this matter.

Regards,

MAYALL HURLEY P.C.

By



VLADIMIR J. KOZINA

Exhibit 1

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Done

 CO FILE DEPT CLOCK VCHR NO DIO
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Earnings Statement


 HYDRAULIC CONTROLS INC
 4700 SAN PABLO AVE
 EMERYVILLE CA 94608

 Period Beginning 09/28/2022
 Period Ending 10/11/2022
 Pay Date 10/11/2022

DENISE M. JACOBS

Earnings	rate	hours	this period	year to date	Other Benefits and Information	this period	total to date
Regular				16,897.95	Sick Balance	0.00	
Overtime				1,529.38	Vacation Balance	0.17	
Ca Sppl 22				429.75	401K Match		341.01
Holiday				360.00			
Incentive				2,100.00	CA Sppl Used		28.65
Makeup Time				30.00	Sick Taken		32.20
Pc Med Appt				9.75	Vac Taken		49.84
Safety				129.96			
Sick				483.00	Important Notes		
Vacation				748.20	510-656-8300		
Gross Pay				22,717.99			
Net Pay							
Net Check							

BASIS OF PAY HOURLY

Deductions	Statutory	Other
Federal Income Tax	1,077.98	
Social Security Tax	1,360.62	
Medicare Tax	318.21	
CA State Income Tax	305.73	
CA SDI Tax	241.40	
Medical		772.50
Roth		227.34
401K		1,136.69
Net Pay		
Net Check		



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Done

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Earnings Statement



HYDRAULIC CONTROLS INC
 4700 SAN PABLO AVE
 EMERYVILLE CA 94608

Period Beginning 08/01/2022
 Period Ending 08/31/2022
 Pay Date 09/12/2022

DENISE M JACOBS

Earnings	rate	hours	this period
Incentive			309.00
Regular			
Overtime			
Ca Sppl 22			
Holiday			
Pd Mod Appt			
Safety			
Sick			
Vacation			
Gross Pay			\$300.00

year to date
2,109.00
14,407.20
1,459.85
429.75
240.00
0.75
86.64
390.45
598.20
19,721.84

Other Benefits and Information	this period	total to date
401K Match		341.01
CA Sppl Used		28.65
Sick Taken		26.03
Vac Taken		39.88

Important Notes

510-658-8300

BASIS OF PAY HOURLY

Deductions	Statutory
Social Security Tax	-18.60
Medicare Tax	-4.35
CA SDI Tax	-3.30
Federal Income Tax	
CA State Income Tax	
Other	
Medical	
Roth	
401K	
Net Pay	\$273.75
Checking	-273.75
Net Check	\$0.00

1,183.51
276.79
209.98
910.52
257.26
633.00
227.34
1,136.69

Your federal taxable wages this period are \$300.00



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Done

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HYDRAULIC CONTROLS INC
 4700 SAN PABLO AVE
 EMERYVILLE CA 94608

Earnings Statement



Period Beginning 08/29/2022
 Period Ending 09/12/2022
 Pay Date 09/15/2022

DENISE M. JACOBS

Earnings	rate	hours	this period	year to date
Safety			43.32	129.96
Regular				15,577.95
Overtime				1,489.55
Ca Spst 22				429.75
Holiday				360.00
Incentive				2,100.00
Makeup Time				30.00
Pd Med Appt				9.75
Sick				390.45
Vacation				598.20
Gross Pay			\$43.32	21,115.61

Your federal taxable wages this period are \$43.32

Other Benefits and Information

	this period	total to date
401K Match		341.01
CA Spst Used		28.65
Sick Taken		26.03
Vac Taken		39.84

Important Notes

510-658-8300

Deductions	Statutory		year to date
Social Security Tax	-2.69		1,267.04
Medicare Tax	-0.62		296.32
CA SDI Tax	-0.48		224.80
Federal Income Tax			993.69
CA State Income Tax			281.29
Other			
Medical			679.50
Roth			227.34
401K			1,136.69
Net Pay		\$39.53	
Checking		-39.53	
Net Check		\$0.00	

BASIS OF PAY: HOURLY



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 HYDRAULIC CONTROLS INC
 4700 SAN PABLO AVE
 EMERYVILLE CA 94608

Earnings Statement


 Period Beginning 09/13/2022
 Period Ending 09/27/2022
 Pay Date 09/30/2022

DENISE M. JACOBS

Earnings	rate	hours	this period
Regular	15.0000	88.00	1,320.00
Overtime	22.5000	1.77	39.83
Ca Sppl 22			
Holiday			
Incentive			
Makeup Time			
Pt Med Appt			
Safety			
Sick			
Vacation			
Gross Pay			\$1,359.83

Deductions	Statutory
Federal Income Tax	-84.29
Social Security Tax	-81.43
Medicare Tax	-19.05
CA State Income Tax	-24.44
CA SDI Tax	-14.44
Other	
Medical	-46.50
Roth	
401K	
Net Pay	\$1,089.68
Checking	-1,089.68
Net Check	\$0.00

year to date
16,897.95
1,529.38
429.75
360.00
2,100.00
30.00
9.75
129.96
390.45
598.20
22,475.44

* Excluded from federal taxable wages

 Your federal taxable wages this period are:
 \$1,313.33

Other Benefits and Information

	this period	total to date
Sick Balance	6.17	
Vacation Balance	10.01	
401K Match		341.01
Totl Hrs Worked	89.77	
CA Sppl Used		28.65
Sick Taken		26.03
Vac Taken		39.88

Important Notes

510-658-8300

BASIS OF PAY: HOURLY



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Done

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 HYDRAULIC CONTROLS INC
 4700 SAN PABLO AVE
 EMERYVILLE CA 94608

Earnings Statement


 Period Beginning 09/28/2022
 Period Ending 10/11/2022
 Pay Date 10/11/2022

DENISE M. JACOBS

Earnings	rate	hours	this period	year to date
Sick	15.0000	6.17	92.55	483.00
Vacation	15.0000	10.00	150.00	748.20
Regular				16,897.95
Overtime				1,529.38
Ca Sppl 22				429.75
Holiday				260.00
Incentive				2,100.00
Makeup Time				30.00
Pd Med Appt				9.75
Safety				129.96
Gross Pay			\$242.55	22,717.99

* Excluded from federal taxable wages

Your federal taxable wages this period are \$196.05

Other Benefits and Information

	this period	total to date
401K Match		341.01
CA Sppl Used		28.45
Sick Taken		32.20
Vac Taken		49.88

Important Notes

510-656-8300

BASIS OF PAY: HOURLY

Deductions	Statutory		year to date
	Social Security Tax	-12.15	1,360.62
	Medicare Tax	-2.84	318.21
	CA SDI Tax	-2.16	241.40
	Federal Income Tax		1,077.98
	CA State Income Tax		305.73
	Other		
	Medical	-46.50	772.50
	Roth		227.34
	401K		1,136.69
Net Pay		\$178.90	
Checking		-178.90	
Net Check		\$0.00	



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A PROFESSIONAL CORPORATION
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Lodi, California 95240



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Hydraulic Controls, Inc.
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Glendale, CA 91203

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JUN 21 2023

Hydraulics Control, Inc.
P.O. Box 8007
Emeryville, CA 94662