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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

YOLANDA ALONZO, an individual, on
behalf of herself and other similarly situated
employees and the State of California,

Plaintiff,

vs.

DEXCOM, INC., a Delaware corporation;
and **DOES 1-50**,

Defendants.

Unlimited Jurisdiction

Case No.: 37-2023-00042543-CU-OE-CTL

CLASS ACTION

COMPLAINT FOR DAMAGES:

1. FAILURE TO PROVIDE MEAL PERIODS
2. FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES
3. FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS
4. FAILURE TO PAY TIMELY WAGES UPON CESSATION OF EMPLOYMENT
5. UNFAIR COMPETITION
6. CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")

DEMAND FOR JURY TRIAL

1 Plaintiff Yolanda Alonzo (“Plaintiff”), on behalf of herself and all other similarly situated
2 persons and the State of California, complains and alleges as follows:

3 **INTRODUCTION**

4 1. This is a class action lawsuit brought on behalf of Plaintiff and others similarly
5 situated, under Code of Civil Procedure § 382, seeking unpaid wages and interest thereon for off-
6 the-clock work, remedies for missed meal periods, remedies for failure to pay premium wages at
7 the correct regular rate of compensation, remedies for failure to pay sick leave at the correct regular
8 rate of pay, inaccurate wage statement penalties, waiting time penalties in the form of continuation
9 wages for failure to timely pay employees, equitable relief, and reasonable attorneys’ fees and
10 costs from Defendant Dexcom, Inc. (“Defendant”).

11 2. Plaintiff, as a proxy for the State of California, also brings a representative law
12 enforcement action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code
13 Section 2698 et seq., to recover civil penalties against Defendant. On behalf of herself, other
14 aggrieved employees and the State of California, Plaintiff seeks to recover civil penalties (75%
15 payable to the Labor & Workforce Development Agency and 25% payable to aggrieved
16 employees) owed by Defendant, under Labor Code Section 2699 for the same Labor Code
17 violations that form the basis of Plaintiff’s class claims alleged above.

18 **JURISDICTION AND VENUE**

19 3. Venue is proper in the County of San Diego because work was performed by
20 employees for Defendant Dexcom, Inc. in the County of San Diego, and the legal obligations of
21 Defendant Dexcom, Inc. to Plaintiff and other similarly situated employees were breached in San
22 Diego, California.

23 4. This Court has jurisdiction over this action under Article 6 of the California
24 Constitution and California Code of Civil Procedure § 410.10.

25 5. This Court has jurisdiction over Plaintiff’s and Class Members’ claims for unpaid
26 overtime and minimum wages under California Labor Code § 1194.

27 6. This Court has jurisdiction over Plaintiff’s and Class Members’ claims for waiting
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1 time penalties and meal period violations under California Labor Code § 218 *et seq.*

2 7. This Court has jurisdiction over Plaintiff's and the Class Members' claims for
3 restitution of unpaid wages and other ill-gotten benefits arising from Defendants' unlawful and/or
4 unfair business practices under California Business & Professions Code §§17200 *et seq.*

5 8. This Court has jurisdiction over Plaintiff's claims for civil penalties pursuant to
6 PAGA.

7 **THE PARTIES**

8 **A. Plaintiff**

9 9. Plaintiff is over the age of eighteen, and at times mentioned in this complaint, was
10 a resident of California. During the relevant period, Plaintiff was employed by Defendant Dexcom,
11 Inc. in California as an hourly-paid non-exempt employee manufacturing components for
12 Defendant Dexcom, Inc.'s glucose monitoring systems. Defendant Dexcom, Inc. employed
13 Plaintiff from approximately August 19, 2020, to on or about March 28, 2023.

14 10. Plaintiff seeks to represent similarly situated non-exempt employees of Defendants
15 who, during the relevant period, were subjected to the following violations of California laws:
16 Labor Code Sections 201-203, 226, 226.7, 510, 512, 1194, and 1197, the applicable Industrial
17 Welfare Commission ("IWC") Wage Orders, including, Wage Order 1-2001, and Bus. & Prof.
18 Code §§ 17200 *et seq.*

19 11. As such, Plaintiff appears in this action on behalf of herself and on behalf of all
20 others similarly situated.

21 **B. Defendants**

22 12. Plaintiff is informed and believes, and thereon alleges, that Defendant Dexcom, Inc.
23 is a Delaware corporation with its principal place of business located in San Diego, California.
24 Defendant Dexcom, Inc. develops, manufactures and distributes glucose monitoring systems to its
25 clients worldwide.

26 13. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
27 participation in the conduct herein alleged, of the Defendants sued herein as DOES, but is informed

1 and believes and thereon alleges that said Defendants are legally responsible for the wrongful
2 conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will
3 amend this complaint to allege the true names and capacities of the DOE Defendants when
4 ascertained. Defendant Dexcom, Inc. and the DOE Defendants are collectively referred to herein
5 as “Defendants.”

6 14. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
7 all respects pertinent to this action as the agent of one or more of the other Defendants, carried out
8 a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
9 Defendant are legally attributable to one or more of the other Defendants.

10 **FACTS RELEVANT TO PLAINTIFF’S CLAIMS**

11 15. At all relevant times, Defendants employed Plaintiff and other similarly situated
12 employees subject to Labor Code Section 226.7 and 512, and the applicable Industrial Welfare
13 Commission (“IWC”) Wage Orders, including Wage Order 1. Under Labor Code Sections 226.7
14 and 512, and the applicable IWC Wage Orders, including Wage Order 1-2001, “An employer may
15 not employ an employee for more than ten (10) hours per day without providing the employee
16 with a second meal period of not less than 30 minutes, except that if the total hours worked is no
17 more than 12 hours the second meal period may be waived by mutual consent of the employer and
18 the employee only if the first meal period was not waived. Additionally, “[i]f an employer fails to
19 provide an employee a meal... period in accordance with state law, ..., the employer shall pay the
20 employee one additional hour of pay at the employee’s regular rate of compensation for each
21 workday that the meal period... is not provided.” Wage Order 1-2001(11); see also Lab. Code §
22 226.7(c) (“If an employer fails to provide an employee a meal... period in accordance with state
23 law, ..., the employer shall pay the employee one additional hour of pay at the employee’s regular
24 rate of compensation for each work day that the meal... period is not provided.”).

25 16. Defendants’ violations of the applicable IWC Wage Orders, including Wage Order
26 1-2001, constitutes a violation of Labor Code Section 558, which imposes civil penalties upon an
27 employer for violations of any provision regulating hours and days of work in any order of the
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1 IWC. Lab. Code § 558(a)(1), (2).

2 17. During the relevant period, Plaintiff and other similarly situated employees were
3 typically scheduled to work between 10 to 11-hour shifts. For shifts which lasted longer than 10
4 hours, Plaintiff and other similarly situated employees were entitled to a second meal period.
5 However, Defendants did not provide Plaintiff with a second meal period.

6 18. Additionally, during the relevant period, Defendants paid premium wages to
7 Plaintiff and other similarly situated employees for violations of California’s meal breaks laws.
8 However, Defendants paid these employees one hour of pay at their base hourly rates when
9 compensating those employees for violations of the meal period requirements and did not adjust
10 the payment of those premiums in the relevant periods when the employees earned bonuses and
11 other non-discretionary remuneration (noted on their wage statements as “Bonus”) required to be
12 factored into an employee’s regular rate of compensation thereby requiring an increased
13 adjustment to the premiums paid during the time relevant to the bonus. *Ferra v. Loews Hollywood*
14 *Hotel, LLC* (2001) 11 Cal.5th 585 (holding that when employers pay one-hour meal and rest period
15 premiums to employees who report that they were not provide compliant meal or rest periods, the
16 pay is not at the employee’s normal “base” hourly rate must be at the same “regular rate” that is
17 used to calculate overtime premiums).

18 19. For example, for the 2022 calendar year, Plaintiff was paid a total of \$207.72 in
19 premium wages for “missed” meal periods. Defendants paid out the premium wages for “missed”
20 meal periods at Plaintiff’s base hourly rate. On March 31, 2023, Defendants paid Plaintiff a non-
21 discretionary bonus, noted on Plaintiff’s wage statement as “Bonus.” This bonus was for the period
22 covering 1/01/2022 to 12/31/2022. Although Defendants retroactively factored the bonus amount
23 into Plaintiff’s regular rate of pay for overtime wages earned in the previous year (2022),
24 Defendants did not do the same for premium wages paid for “missed” meal periods.

25 20. At all times relevant to this action, Plaintiff and other members of the Sick Leave
26 Subclass were employees of Defendants entitled to the benefits of Labor Code Section 246.

27 21. Labor Code section 246(l) requires that employers pay sick time pay to non-exempt
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employees at the employee's "regular rate of pay." Employers must calculate paid sick leave for nonexempt employees (1) "in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek" or (2) "by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment." Labor Code § 246(1).

22. The "regular rate of pay" includes all remuneration for employment paid to the employee with the exception of overtime pay and includes, but is not limited to base hourly wages, shift differentials, assignment based differentials, longevity differentials, and other forms of non-discretionary wages.

23. During the relevant time period, Defendants failed to include forms of non-discretionary remuneration, including but not limited to shift differentials, when determining the "regular rate of pay" for Plaintiff and other members of the Sick Leave Subclass for purposes of sick leave pay.

24. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and other members of the Sick Leave Subclass their sick pay wages at the rate of pay required by law. Accordingly, Plaintiff and other members of the Sick Leave Subclass did not receive the full amount of paid sick time that they were entitled to receive by law.

25. Pursuant to Business and Professions Code section 17203, Plaintiff and other members of the Sick Leave Subclass are entitled to restitution from Defendants of the amount of sick leave wages they were underpaid, and to their reasonable attorneys' fees and costs under Code of Civil Procedure section 1021.5.

26. At all relevant times, Defendants employed Plaintiff and other similarly situated employees subject to Labor Code Sections 510, 1194, 1197 and the applicable IWC Wage Orders, including Wage Order 1-2001. Under Labor Code Section 1197 and Section 4 of Wage Order 1, Plaintiff and other similarly situated employees were entitled to receive minimum wages for all hours worked. Likewise, Section 3 of Wage Order 1 entitled Plaintiff and other similarly situated

1 employees to overtime wages for all hours worked over 8 hours per day or 40 hours per week. As
2 alleged below, Defendants failed to pay for all hours worked in violation of Labor Code Sections
3 1194 and 1197 and Wage Order 1.

4 27. During the relevant period, Plaintiff and other similarly situated employees were
5 subject to a Covid-19 health screening prior to clocking in. Plaintiff and other similarly situated
6 employees were required to line up in Defendants' lobby and wait to be directed by Defendants'
7 security personnel to step in front of a temperature reader. The entire screening procedure lasted
8 about 15 minutes. Plaintiff and other similarly situated employees were not compensated for this
9 off-the-clock work.

10 28. As Plaintiff and other similarly situated employees regularly worked more than 8
11 hours in a shift, Defendants should have paid them at their overtime rate for the pre-shift work. On
12 those day when Plaintiff or other similarly situated employees worked less than 8 hours in a day,
13 Defendants should have paid them at least minimum wages for the pre-shift work.

14 29. Labor Code Section 226(a) requires employers to list on an employee's wage
15 statement, inter alia, "(1) Gross wages earned..." and "(2) total hours worked by an employee..."

16 30. Plaintiff and similarly situated employees of Defendants received wage statements
17 that did not list all wages earned, including the minimum, overtime and premium wages discussed
18 above. In *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, the California Supreme
19 Court confirmed that premium pay for non-compliant meal periods are "wages" for purposes of
20 the Labor Code § 226. Employers therefore have an obligation to report such premium pay on
21 wage statements pursuant to Labor Code § 226. (*Id.* at 121.) As the above infractions explain,
22 Plaintiff and similarly situated employees were entitled to minimum, overtime and premium wages
23 that were not paid and, therefore, are entitled to penalty payments pursuant to Labor Code Section
24 226.

25 31. Pursuant to Labor Code Section 201 and 202, Defendants are required to
26 immediately pay all wages owed in the case of a discharge or resignation when the resigning
27 employee provided at least three days' notice of resignation or within 72 hours for those employees
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1 who resign and provide less than 3 days' notice. Labor Code Section 203 provides for continuation
2 of wages, from the day earned and unpaid were due upon termination until paid, for a maximum
3 of 30 days.

4 32. Plaintiff (and others) have ceased their employment with Defendants. Upon the
5 cessation of that employment relationship (and as prescribed by statute), they did not receive all
6 wages owed. Namely, said former employees (including Plaintiff) did not receive all of their
7 minimum, overtime and premium wages, as well as the prevailing wage rates. Plaintiff and those
8 similarly situated, upon termination, did not receive all owed wages on the date of termination.
9 Therefore, Defendants have violated and continue to violate Labor Code Sections 201 and 202,
10 because even if it pays employees timely, it has not paid the aforementioned wages and wage
11 penalties. Likewise, Defendants have violated Section 203 by not paying the waiting time penalties
12 for failure to comply with Sections 201 and 202.

13 **CLASS DEFINITIONS AND CLASS ALLEGATIONS**

14 33. Plaintiff brings this action on behalf of herself and on behalf of the following
15 Class and subclasses:

16 **Class:** All current and former non-exempt employees of Defendant Dexcom,
17 Inc. employed in California at any time during the period August 10, 2019,
18 through the date notice is mailed to the Class.¹

19 **Sick Leave Subclass:** All members of the Class who were (1) paid sick leave
20 and (2) paid some form of non-discretionary remuneration in addition to base
21 hourly wages, such as a bonus, in either (a) the same workweek in which the
22 person took paid sick leave or (b) during any of the full pay periods in the 90
23 days prior to the person taking paid sick leave.

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27 ¹ The parties entered into a tolling agreement which tolled all of Plaintiff's class claims effective
28 August 10, 2023.

1 **Wage Statement Subclass:** All members of the Class who were employed at
2 any time during the period of August 10, 2022, through the date notice is mailed
3 to the Class.

4 **Waiting Time Penalty Subclass:** All members of the Class whose employment
5 by Defendant Dexcom, Inc. ended at any time during the period of August 10,
6 2020, through the date notice is mailed to the Class, including, but not limited
7 to, anyone who may have been reemployed by Defendants after their
8 employment ended.

9 34. This action has been brought and may be properly maintained as a class action
10 pursuant to the provisions of California Code of Civil Procedure § 382 and other applicable law.

11 35. **Numerosity:** Code of Civil Procedure § 382: members of the Class are so
12 numerous that their individual joinder is impracticable. Plaintiff estimates that there are no less
13 than 50 persons in each of the classes. The precise number of Class members and their addresses
14 are unknown to Plaintiff. However, Plaintiff is informed and believes that the number can be
15 obtained from Defendants' records. Class members may be notified of the pendency of this
16 action by mail, electronic mail, the Internet, or published notice.

17 36. **Existence of Predominance of Common Questions of Fact and Law:** Code of
18 Civil Procedure § 382: Common questions of law and fact exist as to all members of the
19 Classes. These questions predominate over any questions effecting only individual members of
20 the classes. These common factual and legal questions include:

- 21 (a) Whether Defendants failed to factor non-discretionary remuneration into the
22 payment of overtime and double time;
- 23 (b) Whether Defendants failed to factor non-discretionary remuneration into the
24 payment of premium wages for meal period violations;
- 25 (c) Whether Defendants failed to provide meal periods in compliance with Labor
26 Code §§ 512, 226.7 and the applicable IWC Wage Orders;

- (d) Whether Defendants failed to pay class members all wages for working through meal periods;
- (e) Whether Defendants issued accurate itemized wage statements;
- (f) Whether Defendants failed to provide class members who ceased employment with Defendants all wages owed at the time of the cessation of the employee-employer relationship;
- (g) Whether Defendants committed unlawful business practices or acts within the meaning of Business & Professions Code Sects. 17200 *et seq.*;
- (h) Whether, as a consequence of Defendants' unlawful conduct, the members of the Classes are entitled to restitution, and/or equitable relief;
- (i) Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and the class members as a whole.

37. **Typicality:** Plaintiff's claims are typical of the claims of the members of each Class because Plaintiff, as an hourly paid employee, was exposed to the same unlawful business practices as the members of the classes. Plaintiff sustained the same types of injuries and losses that the Class members sustained. Plaintiff is subject to the same affirmative defenses as the members of the Class.

38. **Adequacy:** Plaintiff will adequately and fairly protect the interests of the members of the Class. Plaintiff has no interest adverse to the interests of absent Class members. Plaintiff is represented by legal counsel who has substantial class action experience in civil litigation and employment law.

39. **Superiority:** A class action is superior to other available means for fair and efficient adjudication of the claims of the Class and would be beneficial for the parties and the court. Class action treatment will allow a large number of similarly situated persons to prosecute their common claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would require. The monetary amounts due to many individual Class members are likely to be relatively small, and the burden

1 and expense of individual litigation would make it difficult or impossible for individual members
2 of the Class to seek and obtain relief. A class action will serve an important public interest by
3 permitting such individuals to effectively pursue recovery of the sums owed to them. Further,
4 class litigation prevents the potential for inconsistent or contradictory judgments raised by
5 individual litigation.

6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO PROVIDE MEAL PERIODS**

8 **(By Plaintiff and the Class against Defendants)**

9 40. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
10 though set forth herein.

11 41. At all relevant times, Plaintiff and the other members of the Class were employees
12 of Defendants covered by Labor Code Sections 226.7 and 512, and the applicable IWC Wage
13 Orders, including Wage Order 1-2001.

14 42. Pursuant to Labor Code Sections 226.7 and 512, and the applicable IWC Wage
15 Orders, Plaintiff and the other members of the Class were entitled to a meal period of at least 30
16 minutes for each workday they worked more than 5 hours in any workday and a second meal
17 period after working more than 10 hours in a day, and one additional hour of pay for every day
18 that a timely meal period was not provided per day.

19 43. As alleged above, Defendants failed to provide Plaintiff and other members of the
20 Class second meal periods on shifts over 10 hours, in accordance with Labor Code Section 226.7
21 and 512, and the applicable IWC Wage Orders. In addition, when Defendants did pay Plaintiff and
22 other members of the class premium wages for meal period violations, Defendants failed to pay
23 such premiums at the correct regular rate of compensation as required by California law.

24 44. Plaintiff is informed and believes and thereon alleges that during the applicable
25 limitations period, Defendants maintained and continue to maintain a policy or practice of not
26 providing compliant meal periods to members of the Class as required by law.

27 45. Based on the conduct alleged herein, pursuant to Labor Code section 226.7 and the
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1 applicable Wage Order(s), Plaintiff and the Class are entitled, and therefore seek, the recovery of
2 all meal break premium wages from Defendants in an amount equal to one (1) hour of wages per
3 non-compliant meal period in a sum to be proven at trial.

4 46. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
5 Class have suffered damages in an amount, subject to proof, to the extent they were not paid all
6 premiums owed for meal period violations.

7 47. Pursuant to Labor Code Section 218, Plaintiff and other members of the Class are
8 entitled to recover the unpaid additional pay for meal period violations. Pursuant to Labor Code
9 Section 218.5, Plaintiff and other members of the Class are entitled to recover their reasonable
10 attorney's fees and costs of suit. Pursuant to Labor Code Section 218.6 or Civil Code Section
11 3287(a), Plaintiff and other members of the Class are entitled to recover prejudgment interest on
12 the additional pay owed for meal period violations.

13 **SECOND CAUSE OF ACTION**

14 **FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES**

15 **(By Plaintiff and the Class against Defendants)**

16 48. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
17 though set forth herein.

18 49. At all relevant times, Plaintiff and the other members of the Class were employees
19 of Defendants covered by Labor Code Sections 510, 1194, 1197 and 1197.1, and the applicable
20 IWC Wage Orders, including Wage Order 1-2001.

21 50. Plaintiff is informed and believes and, based thereon, alleges that Defendants
22 regularly and systematically, as a policy and practice, failed to pay all minimum and overtime
23 wages to Plaintiff and other members of the Class for Covid-19 health screenings while off-the-
24 clock without compensating them for this time. In committing the violations of state law as herein
25 alleged, Defendants have knowingly and willfully refused to perform their obligations to
26 compensate class members for all wages earned and all hours worked.

27 51. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
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1 Class have suffered damages in an amount, subject to proof, to the extent they were not paid all
2 overtime wages for all hours actually worked.

3 52. Pursuant to Labor Code Sections 510, 1194, 1197 and 1197.1, as a result of the
4 unlawful acts of Defendants, Plaintiff and other members of the Class are entitled to recover the
5 full amount of unpaid minimum and overtime wages in amounts to be determined at trial,
6 prejudgment interest, reasonable attorney's fees and costs of suit.

7 **THIRD CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

9 **(By Plaintiff and the Wage Statement Subclass against Defendants)**

10 53. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
11 though set forth herein.

12 54. Section 226(a) of the California Labor Code requires Defendants to accurately
13 report total hours worked by Plaintiff and the members of the Wage Statement Subclass, and to
14 accurately set forth wages earned. Defendants have knowingly and intentionally failed to comply
15 with Labor Code section 226(a) on each and every wage statement provided to Plaintiff and
16 members of the Wage Statement Subclass by failing to accurately list all hours worked and all
17 wages earned, including minimum and overtime wages and premium wages.

18 55. As a consequence of Defendants' knowing and intentional failure to comply with
19 Labor Code section 226(a), Plaintiff and each member of the Wage Statement Subclass she seeks
20 to represent are each entitled to actual damages or penalties not to exceed \$4,000 pursuant to Labor
21 Code section 226(b), together with interest thereon and attorneys' fees and costs.

22 **FOURTH CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES TIMELY UPON CESSATION OF EMPLOYMENT**

24 **(By Plaintiff and the Waiting Time Penalty Subclass against Defendants)**

25 56. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
26 though set forth herein.

27 57. Plaintiff and the other members of the Waiting time Penalty Subclass were
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1 employees of Defendants covered by Labor Code Sections 201 or 202 whose employment with
2 Defendants ended during the relevant class period.

3 58. Pursuant to Labor Code Sections 201 or 202, Plaintiff and other members of the
4 Waiting Time Penalty Subclass were entitled upon cessation of employment with Defendants to
5 timely payment of all wages earned and unpaid prior to termination. Discharged employees were
6 entitled to payment of all wages earned and unpaid prior to discharge immediately upon
7 termination. Employees who resigned were entitled to payment of all wages earned and unpaid
8 prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours
9 previous notice, they were entitled to payment of all wages earned and unpaid prior to resignation
10 at the time of resignation.

11 59. As alleged above, Defendants failed to pay Plaintiff and other members of the
12 Waiting Time Penalty Subclass all wages earned and unpaid prior to termination, including all
13 minimum, overtime and premium wages owed at the time of the cessation of the employee-
14 employer relationship in accordance with Labor Code Section 201 or 202. Plaintiff is informed
15 and believes and thereon alleges that at all relevant times within the applicable limitations period,
16 Defendants maintained and continue to maintain a policy or practice of not paying terminated
17 employees all their final wages, including minimum and overtime wages and break premium
18 wages, earned before termination due under Labor Code Section 201 or 202.

19 60. Defendants' failure to pay Plaintiff and members of the Waiting Time Penalty
20 Subclass all wages earned prior to termination in accordance with Labor Code Sections 201 or 202
21 was willful. Defendants had the ability to pay all wages earned by employees prior to termination
22 in accordance with Labor Code Sections 201 or 202, but intentionally adopted policies or practices
23 incompatible with the requirements of Labor Code Sections 201 or 202.

24 61. Pursuant to Labor Code Section 201 or 202, Plaintiff and other members of the
25 Waiting Time Penalty Subclass are entitled to all wages earned prior to termination that
26 Defendants failed to pay them.

27 62. Pursuant to Labor Code Section 203, Plaintiff and other members of the Waiting
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1 Time Penalty Subclass are entitled to continuation of their wages, from the day their earned and
2 unpaid wages were due upon termination until paid, up to a maximum of 30 days.

3 63. As a result of Defendants' conduct, Plaintiff and other members of the Waiting
4 Time Penalty Subclass have suffered damages in an amount, subject to proof, to the extent they
5 were not paid for all wages earned prior to termination.

6 64. As a result of Defendants' conduct, Plaintiff and members of the Waiting Time
7 Penalty Subclass have suffered damages in an amount, subject to proof, to the extent they were
8 not paid all continuation wages owed under Labor Code Section 203.

9 65. Pursuant to Labor Code Sections 218 and 218.5, Plaintiff and other members of the
10 Waiting Time Penalty Subclass are entitled to recover the full amount of their unpaid wages,
11 continuation wages under Labor Code Section 203, reasonable attorney's fees and costs of suit.
12 Pursuant to Labor Code Section 218.6 or Civil Code Section 3287(a), Plaintiff and other members
13 of the Waiting Time Penalty Subclass are entitled to recover prejudgment interest on the amount
14 of their unpaid wages and unpaid continuation wages.

15 **FIFTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(By Plaintiff and the Classes against Defendants)**

18 66. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
19 though set forth herein.

20 67. Defendants are "persons" as defined under Business and Professions Code § 17021.

21 68. Plaintiff alleges that Defendants committed the unfair business practices, as defined
22 by Cal. Bus. & Prof. Code § 17200, et seq., by violating the laws alleged to have been violated in
23 this Complaint and which allegations are incorporated herein by reference as though set forth
24 herein, which allegations include, but are not limited to:

25 a. Failing to pay Plaintiff and Class Members all overtime wages due in
26 violation of state law;

27 b. Failing to pay Plaintiff and Class Members all minimum wages due in
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violation of state law;

- c. Failing to provide meal periods to Plaintiff and Class Members consistent with California law and paying all premium wages owed for such violations;
- d. Failing to pay all sick pay wages owed to Plaintiff and Class members consistent with California law;
- e. Failing to provide accurate wage statements consistent with California law;
- f. Failing to pay final wages upon cessation of employment consistent with California law;

69. As a result of Defendants' unfair competition as alleged herein, Plaintiff and other members of the Classes have suffered injury in fact and lost money or property. Plaintiff and members of the Classes have been deprived of their rights to minimum and overtime wages for all hours worked; meal periods, premium wages at the correct regular rate of pay for meal period violations, sick pay wages at the regular rate of pay, accurate wage statements, and/or timely payment of all earned wages due upon termination of employment.

70. Pursuant to Business and Professions Code Section 17203, Plaintiff and other class members are entitled to restitution of all wages and other monies owed and belonging to them, including interest thereon, that Defendants wrongfully withheld from them and retained for themselves by means of their unlawful and unfair business practices.

71. Plaintiff and Class Members are entitled to recover reasonable attorney's fees in connection with their unfair competition claims pursuant to Code of Civil Procedure Section 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

SIXTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698 *et seq.*)

(By Plaintiff, Aggrieved Employees and the State of California against Defendants)

72. Plaintiff incorporates all of the foregoing paragraphs of this complaint as though fully alleged herein, except those paragraphs that uniquely relate to class allegations.

73. Under the Private Attorneys General Act, Labor Code §§ 2698-99 (“PAGA”), private parties may recover civil penalties for violations of the California Labor Code. PAGA penalties are in addition to any other relief available under the Labor Code.

74. As set forth above, Defendants have committed numerous violations of the California Labor Code by consistently failing to provide Plaintiff and other aggrieved employees with meal periods, failing to pay premium wages at the correct regular rate of compensation, failing to issue accurate itemized wage statements, failing to pay sick leave pay at the correct regular rate of pay, and failing to timely pay final wages.

75. Plaintiff provided written notice of the Labor and Workforce Development Agency (“LWDA”), through the LWDA’s online submission portal, and to Defendant Dexcom, Inc. via certified mail, of the legal claims and theories of this case on June 5, 2023. (Attached hereto as Exhibit 1 is a true and correct copy of the June 5, 2023 letter and the LWDA’s receipt confirmation). To date, and after 65 days from the date of the mailing of the written notice, the LWDA has not notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim for civil penalties under the PAGA. Accordingly, Plaintiff exhausted the administrative remedies required by Labor Code § 2699.3.

76. Under the Labor Code's Private Attorneys General Act, Plaintiff is entitled to recover the maximum civil penalties permitted by law from Defendants for the Labor Code violations alleged herein.

77. Plaintiff is also entitled to recover his attorneys' fees and costs under Labor Code § 2699.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of herself and all others similarly situated employees,
prays for relief and judgment against Defendants as follows:

CLASS CERTIFICATION:

1. An order that the action be certified as a class action;
2. An order that Plaintiff be certified as the representative of the Classes;

3. An order that counsel for Plaintiff be confirmed as Class counsel;

ON THE FIRST CAUSE OF ACTION:

1. Damages for unpaid additional pay owed for non-compliant meal periods;

2. Prejudgment interest;

ON THE SECOND CAUSE OF ACTION:

1. Damages for unpaid overtime wages;

2. Damages for unpaid minimum wages;

3. Liquidated damages;

4. Prejudgment interest;

ON THE THIRD CAUSE OF ACTION:

1. Damages for inaccurate wage statements for each pay period;

2. Prejudgment interest;

ON THE FOURTH CAUSE OF ACTION:

1. Damages for unpaid wages earned prior to termination of employment;

2. Damages for unpaid continuation wages owed for failing to pay all earned wages timely upon termination of employment;

3. Prejudgment interest;

ON THE FIFTH CAUSE OF ACTION:

1. Restitution of all unpaid wages and other monies owed and belonging to the Class that Defendants unlawfully withheld from them and retained for themselves;

2. Prejudgment interest;

ON THE SIXTH CAUSE OF ACTION:

1. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to aggrieved employees);

2. Costs;

3. Reasonable attorneys' fees; and

4. Such other and further relief as this Court may deem just and proper.

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ON ALL CAUSES OF ACTION:

- 1. Judgment in favor of Plaintiff and the putative Classes and against Defendants;
- 2. Reasonable attorney’s fees;
- 3. Costs of suit; and
- 4. Such other relief as the Court deems just and proper.

Dated: September 28, 2023

MOSS BOLLINGER, LLP



By: _____
Jeremy F. Bollinger
Attorneys for Plaintiff YOLANDA ALONZO

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for herself and the Classes on all claims so triable.

Dated: September 28, 2023

MOSS BOLLINGER, LLP



By: _____
Jeremy F. Bollinger
Attorneys for Plaintiff YOLANDA ALONZO