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Attorney for Plaintiff
Roxanne M. Jolicoeur, on behalf of herself
And all other similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
ALAMEDA SUPERIOR COURT

ROXANNE M. JOLICOEUR, individually and
on behalf of all other similarly situated,

Plaintiff

v.

FIRST-CITIZENS BANK & TRUST
COMPANY, a North Carolina corporation; and
DOES 1-50

Defendants

COMPLAINT FOR CIVIL PENALTIES

Case No. **24CV064833**

UNLIMITED JURISDICTION

1. Civil Penalties Pursuant to Private
Attorney General Act, Labor Code §
2698 *et seq.*

DEMAND FOR JURY TRIAL

Plaintiff ROXANNE M. JOLICOEUR ("Plaintiff"), on behalf of herself and all other similarly
situated employees and former employees, hereby files her Complaint against FIRST CITIZENS BANK
& TRUST COMPANY, a North Carolina corporation, and Does 1 through 50 (collectively referred to as
"Defendants"). Plaintiff alleges as follows:

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2. During all relevant times, Plaintiff and similarly situated employees worked for Defendants and incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to, at-home Internet use and cell phone use. As a matter of policy and/or practice, Defendants failed to reimburse Plaintiff and similarly situated employees for at-home Internet use and cell phone use even though these costs were necessary for Plaintiff and similarly situated employees to discharge their employment responsibilities.

3. The Alameda Superior Court has jurisdiction in this matter due to alleged violations of California Government Code sections 12945.2 and 12940 *et seq.* The amount in controversy exceeds the jurisdictional minimum of this court.

PARTIES

6. Defendants hired Plaintiff as a California remote employee from 2019 through July 2023. During this time, Plaintiff held the position of a Regional Account Executive.

8. Plaintiff's sales territories were throughout Northern California, including Alameda County.

1 9. Plaintiff is informed and believes, and thereon alleges, that Defendant FIRST CITIZENS
2 BANK & TRUST COMPANY is a North Carolina corporation, and its principal place of business is in
3 Raleigh, North Carolina.

4 10. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants
5 herein was, at all times relevant to this action, the agent, employee, or joint employer or joint venturer of
6 the remaining defendants and was acting within the course and scope of that relationship. Plaintiff is
7 further informed and believes, and thereon alleges, that each of the Defendants herein gave consent to,
8 ratified and authorized the acts alleged herein to each of the remaining defendants. The true names and
9 capacities of the defendants named herein Does 1 through 50, inclusive, whether individual, corporate,
10 associate, or otherwise are unknown to Plaintiff, who therefore sues such defendants by fictitious names
11 pursuant to California Code of Civil Procedure section 474. Plaintiff will amend this complaint to show
12 such true names and capacities of Does 1 through 50, inclusive, when they have been determined.

13 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14 11. On December 13, 2023, Plaintiff filed her Labor Code § 2699.3 Private Attorney General
15 Act (“PAGA”) Notice with the California Labor & Workforce Development Agency (“LWDA”). After
16 the expiration of 65 days from the filing of the PAGA Notice, if the LWDA does not respond, Plaintiff
17 will have fully exhausted his administrative remedy.

18 **GENERAL ALLEGATIONS**

19 12. Plaintiff incorporates by reference and re-alleges all paragraphs set forth above as though
20 fully set forth herein.

21 13. Plaintiff and similarly situated employees worked for Defendants as both designated
22 exempt and non-exempt employees in California.

23 14. Between 2019 and until her unlawful termination in July 2023, Plaintiff was employed by
24 Defendants as a Regional Account Executive. Plaintiff’s job duties included, but were not limited to,
25 growing Defendants’ regional portfolios and supporting Homeowners Associate product and services to
26 new and existing customers.

27 15. Plaintiff and other similarly situated employees were required to use their personal cell
28 phones to contact clients and potential clients, participate in meetings with co-workers, be on call to

1 answer various questions from Defendants, and discharge other responsibilities necessary for Plaintiff
2 and other similarly situated employees to perform the functions of their current roles.

3 16. Plaintiff and other similarly situated employees were also required to use their own at-
4 home Internet to perform various functions necessary for them to discharge their employment
5 responsibilities, including meeting with clients via Zoom or other remote means, participate in meetings
6 with Defendants via Zoom or other remote means, and conduct research necessary for Plaintiff and
7 similarly situated employees to discharge their employment responsibilities.

8 17. Plaintiff is informed and herein alleges that Defendants had a blanket policy and/or
9 practice not to reimburse their employees, including Plaintiff and other similarly situated employees, for
10 at-home Internet use and cell phone use even though these expenses were necessary and in direct
11 consequence of Plaintiff's and other similarly situated employees' discharge of their employment
12 responsibilities.

13 18. Based on the following facts and theories, Defendants have violated and/or continue to
14 violate, among other provisions of the California Labor Code and applicable wage law, California Labor
15 Code sections 2800 and 2802.

16 **FIRST CAUSE OF ACTION**

17 **Civil Penalties Pursuant to the Labor Code Private Attorney General Act**

18 **Lab. Code § 2698 *et seq.***

19 19. Plaintiff incorporates by reference and re-alleges all paragraphs set forth above as though
20 fully set forth herein.

21 20. Plaintiff brings this cause of action as a proxy for the State of California and, in this
22 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendant's violations of the
23 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
24 violations identified above.

25 21. On or about December 13, 2023, Plaintiff, through her counsel, sent written notice to the
26 LWDA regarding Defendant's violations of the California Labor Code, pursuant to Labor Code section
27 2698, *et seq.*, PAGA. As of the date of the filing of this Complaint, the LWDA has not informed
28 Plaintiff whether the LWDA intends to investigate Plaintiff's PAGA claims.

22. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California and all aggrieved employees for all violations of the Labor Code from December 14, 2023 through date of trial on this matter.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays that Judgment be entered in her favor and against FIRST-CITIZENS BANK & TRUST COMPANY and Does 1-50, and each of them as follows:

1. For civil penalties under the California Labor Code according to proof allowed by law;
2. Reasonable attorneys' fees; and
3. Such other relief as the Court deems just and proper.

Respectfully submitted,

Castle Law: California Employment Counsel, PC

Dated: February 21, 2024

By: Edith C. Smith

Timothy B. Del Castillo
Erkel Law, P.C.
 Steven A. Erkel, Esq.
Attorneys for Plaintiff

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2 **DEMAND FOR JURY**

3 Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

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5 Respectfully submitted,

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

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9 Dated: February 21, 2024

10 By: 
11 Timothy B. Del Castillo
12 **Erkel Law, P.C.**
13 Steven A. Erkel, Esq.
14 *Attorneys for Plaintiff*
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