

BOKHOUR LAW GROUP, P.C.
Mehrddad Bokhour, Esq., CA Bar No. 285256
mehrdad@bokhourlaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

FALAKASSA LAW, P.C.
Joshua S. Falakassa, CA Bar No. 295045
josh@falakassalaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (818) 456-6168; Fax: (888) 505-0868

Attorneys for Plaintiff and the Putative Classes

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

ZABIHULLAH AZAMY, on behalf of himself
and all others similarly situated,

Plaintiff,
v.

CELESTICA, LLC., a Georgia Limited Liability
Company; and DOES 1-50, inclusive.

Defendants.

CASE NO.: 24CV059992

**FIRST AMENDED CLASS AND PAGA
ACTION COMPLAINT:**

- (1) FAILURE TO PAY ALL OVERTIME WAGES;
- (2) MEAL PERIOD VIOLATIONS;
- (3) REST PERIOD VIOLATIONS;
- (4) FAILURE TO PAY ALL SICK TIME;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) WAITING TIME PENALTIES;
- (7) UNFAIR COMPETITION; &
- (8) PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (“PAGA”)

DEMAND FOR JURY TRIAL

1 Plaintiff Zabihullah Azamy (“Plaintiff”), on behalf of himself and all other similarly situated
2 non-exempt employees, alleges and complains of Defendants Celestica, LLC and Celestica Precision
3 Machining Ltd. and DOES 1 to 50 (collectively “Defendants”) and each of them, as follows:

4 **INTRODUCTION**

5 1. Defendants offer design and engineering expertise, global logistics, new product
6 introduction, supply chain design, and commodity management services.

7 2. Plaintiff brings this class action lawsuit against Defendants for alleged violations of the
8 California Labor Code and Business and Professions Code.

9 3. As set forth below, Plaintiff alleges that Defendants failed to pay all overtime
10 compensation and sick pay wages at the proper legal rates by failing to calculate the “regular rate of
11 pay” correctly. Moreover, Plaintiff alleges that Defendants’ meal and rest period policies and
12 practices failed to allow and permit non-exempt employees to take all compliant and timely meal and
13 rest periods or pay premium wages at the “regular rate of pay” in lieu thereof. Plaintiff further alleges
14 that Defendants failed to provide non-exempt employees with accurate written itemized wage
15 statements in violation of Labor Code § 226(a) and failed to timely pay all final wages upon separation
16 of employment in violation of Labor Code §§ 201-203. Plaintiff also brings a claim for civil penalties
17 based on the foregoing Labor Code violations under the Private Attorney General Act (“PAGA”).

18 4. Based on these alleged Labor Code violations, Plaintiff now brings this class action
19 and representative action to recover unpaid wages, restitution, penalties, and other related relief for
20 himself and all other similarly situated non-exempt employees.

21 **JURISDICTION AND VENUE**

22 5. Plaintiff, on behalf of himself and all other similarly situated employees hereby bring
23 this class action for recovery of unpaid wages and penalties under California Labor Code §§ 201-
24 204, 210, 226(a), 226(a)(6), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4, 1199, and
25 applicable Industrial Welfare Commission Wage Orders (“Wage Orders”), in addition to seeking
26 declaratory relief and restitution pursuant to California Business and Professions Code § 17200, *et*
27 *seq.*

28 ///

6. This class action is brought pursuant to the California Code of Civil Procedure § 382.

7. This Court has jurisdiction over Defendants violations of the California Labor Code and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional minimum.

8. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, Defendants operates in California within the County of Alameda, and Defendants is within the jurisdiction of this Court for purposes of service of process.

PARTIES

9. At all relevant times herein, Plaintiff, who is over 18, was and currently is a California resident residing in the State of California.

10. Plaintiff is informed and believes and alleges that Defendants are authorized to do business within the County of Alameda and is and/or was the legal employer of Plaintiff and the Class Members during the applicable statutory periods. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein and has been deprived of the rights guaranteed to him by California Labor Code §§ 201-203, 204, 210, 226, 226(a), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4, 1199, and the California Business and Professions Code § 17200 *et seq.*, and applicable Wage Orders.

11. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the State of California, County of Alameda.

12. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the Defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and thereon alleges, that each of said fictitious Defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein and proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices alleged herein.

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1 13. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
2 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
3 times herein mentioned, each of said Defendants participated in the acts hereinafter alleged to have
4 been done by the named Defendants. Furthermore, the Defendants, and each of them, were the agents,
5 servants, and employees of each and every one of the other Defendants, as well as the agents of all
6 Defendants, and at all times herein mentioned, were acting within the course and scope of said agency
7 and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified
8 each and every one of the acts or omissions complained of herein.

9 14. At all times mentioned herein, Defendants, and each of them, were members of and
10 engaged in a joint venture, partnership, and common enterprise and acting within the course and
11 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
12 alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the
13 Classes.

14 **COMMON FACTUAL ALLEGATIONS**

15 15. Defendants offer design and engineering expertise, global logistics, new product
16 introduction, supply chain design, and commodity management services.

17 16. Plaintiff was employed by Defendants as a non-exempt employee with the title of
18 “Machinist” out of its Fremont, California, location beginning in August 2015 until his separation
19 from employment on December 7, 2023.

20 17. Plaintiff and other non-exempt employees (including, but not limited to, Production
21 Operator, CNC Machinist, Material Handler, Machinist 2, Production Technical Operator, Mechanic
22 Technician – Aerospace, and all other non-exempt positions) were responsible for all aspects of
23 Defendants’ business in the State of California. However, in these roles, Plaintiff and non-exempt
24 employees were often not afforded all protections and rights conferred under the California Labor
25 Code and applicable wage orders.

26 18. At all relevant times, Plaintiff and other non-exempt employees regularly worked
27 various shifts, many of which were more than 8.0 hours in a workday and 40.0 hours in a workweek.
28 Plaintiff alleges that other non-exempt employees were also subjected to the same policies,

1 procedures, practices, working conditions, and corresponding wage and hour violations to which he
2 was subjected during his employment.

3 19. First, at all relevant times, Plaintiff and other non-exempt employees worked regular
4 shifts that lasted longer than 8.0 hours in a workday and resulted in non-exempt employees regularly
5 working more than 40 hours in a workweek. However, Defendants uniformly failed to properly
6 calculate and pay overtime wages at the proper legal rate due to Defendants' failure to include all
7 forms of compensation/remuneration, including, but not limited to, commissions, incentives, non-
8 discretionary bonuses, and all other forms of remuneration in calculating the "regular rate of pay" for
9 purposes of overtime compensation.

10 20. Under the California Labor Code (as well as the FLSA), courts have consistently held
11 that regularly paid non-discretionary bonuses (and other forms of pay) must be included in
12 determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v.*
13 *The Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency
14 bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc.* 435 F.
15 Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgment to Plaintiff under California
16 and federal law on the grounds that Defendants improperly calculated overtime by excluding annual
17 bonuses paid to employees from the "regular rate of compensation"]; see *Walling v. Youngerman-*
18 *Reynolds Hardwood Co.* (1945) 65 S.Ct. 1242, 1245. ("The regular rate by its very nature must reflect
19 all payments which the parties have agreed shall be received regularly during the workweek,
20 exclusive of overtime payments. It is not an arbitrary label chosen by the parties but an actual fact.
21 Once the parties have decided upon the amount of wages and the mode of payment, the determination
22 of the regular rate becomes a matter of mathematical computation, the result of which is unaffected
23 by any designation of a contrary 'regular rate' in the contracts."); see also 29 CFR §§ 778.110
24 ("production bonus") and 778.111 ("piece-rate").

25 21. Labor Code § 510 requires an employer to compensate an employee who works more
26 than eight (8.0) hours in one workday, forty (40) hours in a workweek, and for the first eight (8.0)
27 hours worked on the seventh consecutive day, no less than one and one-half times (1 1/2) the regular
28 rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less

1 than twice the regular rate of pay when an employee works more than twelve (12) hours in a workday
2 or more than eight (8.0) hours on the seventh consecutive day of work. Pursuant to Section 3 of the
3 applicable Wage Orders, non-exempt employees shall not be employed more than eight (8.0) hours
4 in any workday or more than 40.0 hours in any workweek unless the employee receives one and one-
5 half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in the
6 workweek.

7 22. By their policy of requiring Plaintiff and the other non-exempt employees to work in
8 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating
9 them at the lawful rate of one-half (1 1/2) their "regular rate of pay," Defendants willfully violated
10 the provisions of Labor Code § 510 and the applicable Wage Orders.

11 23. Similarly, at all relevant times, Defendants also failed in its obligation to provide
12 Plaintiff and other non-exempt employees the legally required paid sick days at the legal rate pursuant
13 to Labor Code §§ 246(a),(b), which requires that "[a]n employee who, on or after July 1, 2015, works
14 in California for the same employer for 30 or more days within a year from the commencement of
15 employment is entitled to paid sick days. . . at the rate of not less than one hour per every 30 hours
16 worked, beginning at the commencement of employment." Labor Code § 246(l)(1) provides that paid
17 sick time for non-exempt employees must be "calculated in the same manner as the regular rate of
18 pay for the workweek in which the employee uses paid sick time, whether or not the employee
19 actually works overtime in that workweek."

20 24. Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated
21 by dividing the employee's total wages, not including overtime premium pay, by the employee's total
22 hours worked in the full pay periods of the prior 90 days of employment." Finally, Labor Code §246(i)
23 requires employers to "provide an employee with written notice that sets forth the amount of paid
24 sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either
25 the employee's itemized wage statement described in Section 226 or in a separate writing provided
26 on the designated pay date with the employee's payment of wages."

27 25. Here, at all relevant times, Defendants failed in its obligation to provide Plaintiff and
28 other non-exempt employees the legally required paid sick days at the legal rate, including all forms

1 of compensation, pursuant to Labor Code §§ 246(a), (b). As such, Defendants paid sick time below
2 the “regular rate of pay” as required by Labor Code §§ 246(l) (1-2).

3 26. Moreover, at all relevant times, Plaintiff and other non-exempt employees were denied
4 compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to
5 Defendants uniform meal period policies/practices, operational requirements, and work demands,
6 Plaintiff and other non-exempt employees often could not take timely and uninterrupted net 30-
7 minute first meal periods before the end of the fifth hour of work. Further, when Plaintiff and other
8 non-exempt employees worked more than 10.0 hours in a shift, they were not always allowed and
9 permitted to take a mandated second meal period before the end of the tenth hour of work in violation
10 of the Labor Code and applicable Wage Orders. Indeed, Plaintiff’s and other non-exempt employees’
11 meal periods were often interrupted and/or lasted fewer than 30 minutes due to Defendants’ meal
12 period policies/procedures, operational requirements, and work demands.

13 27. In addition, for each missed or non-compliant meal period, Defendants failed and
14 continues to fail to maintain a mechanism by which non-exempt employees were paid meal period
15 premiums at the “regular rate of pay” pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11
16 5th 858 and Labor Code § 226.7.

17 28. due to Defendants' uniform meal period practices, non-exempt employees were also
18 regularly denied legally compliant meal periods in violation of Labor Code §§ 226.7, 510, 516, and
19 applicable Wage Orders.

20 29. Next, at all relevant times, Plaintiff and other non-exempt employees were not
21 provided with all 10-minute rest periods for every four hours worked, or a major fraction thereof, due
22 to Defendants’ uniform rest period policies/practices, operational requirements, and work demands.
23 As a result, Plaintiff and other non-exempt employees were and are often unable to take a net 10-
24 minute duty-free rest period for every major fraction of four hours worked. This includes a second
25 rest period for shifts in excess of six hours and a third rest period for shifts in excess of 10.0 hours in
26 a workday.

27 30. By not relieving all non-exempt employees of all duties during rest periods,
28 Defendants failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services*,

1 *Inc.* (2016) 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve
2 employees of all duties and relinquish control over how employees spend their time.”] (Emphasis
3 added). In *Augustus*, the California Supreme Court expressly rejected the employer’s assertion that it
4 could provide an on-duty rest period to employees who worked as security guards and further
5 explained: “that employers [must] relinquish any control over how employees spend their break time
6 and relieve their employees of all duties.” *Id.* at 273. Each time non-exempt employees could not take
7 a compliant rest period, Defendants failed and continues to fail to adequately pay rest period premium
8 payments at the “regular rate of pay” as required by Labor Code § 226.7.

9 31. Accordingly, due to Defendants’ uniform rest period policies/practices, non-exempt
10 employees were regularly denied legally compliant rest breaks in violation of Labor Code §§ 226.7,
11 512, and applicable Wage Orders.

12 32. As a result of Defendants’ failure to pay Plaintiff and other non-exempt employees for
13 all hours they were subject to the control of Defendants, including all overtime wages, sick pay
14 wages, Defendants’ failure to adequately pay for all overtime/sick pay wages at the appropriate legal
15 rate, and Defendants’ failure to pay all meal and rest period premiums at the “regular rate of pay,”
16 Defendants issued wage statements which failed to identify the gross wages earned accurately, the
17 total hours worked, the net wages earned, and the correct corresponding number of hours worked at
18 each hourly rate, in violation of Labor Code § 226(a)(1, 2, 5, and 9).

19 33. In addition, the wage statements provided to Plaintiff and other non-exempt
20 employees fail to state the name and address of the legal entity that is the employer in violation of
21 Labor Code § 226(a)(8).

22 34. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
23 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
24 employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for
25 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
26 deduction statement or fails to keep the required in subdivision (a) of Section 226.”

27 35. Thus, for the violations of Labor Code section 226 described above, Plaintiff and other
28 non-exempt employees may also recover Labor Code § 226.3 penalties for Defendants violations of

1 Labor Code § 226(a). Consequently, because Defendants failed to comply with Labor Code § 226(a),
2 Plaintiff and other non-exempt employees would be entitled to recover penalties under Labor Code §
3 226(e).

4 36. Finally, because Defendants failed to pay all overtime, sick pay wages, and meal and
5 rest period premiums at the “regular rate of pay,” Defendants also failed and continues to fail to pay
6 Plaintiff and other non-exempt employees all wages owed at their time of separation from
7 employment in violation of Labor Code §§ 201-203. Thus, non-exempt employees would be entitled
8 to recover waiting time penalties under Labor Code §§ 201-203.

9 **CLASS ACTION ALLEGATIONS**

10 37. Plaintiff brings this action on behalf of himself and the following Classes pursuant to
11 § 382 of the Code of Civil Procedure:

12 All current or former non-exempt hourly employees who work or worked
13 for Defendants in California during the four years immediately preceding
the filing of the Complaint through the date of trial. (the “Class”)

14 All current or former non-exempt employees who worked for Defendants
15 in California and worked overtime hours during at least one shift during the
16 four years immediately preceding the filing of the Complaint through the
date of trial. (“the Overtime Subclass”)

17
18 All current or former employees who work or worked for Defendants in
19 California during the one year immediately preceding the filing of the
Complaint through the date of trial. (“the Wage Statement Subclass”)

20 All employees who work or worked for Defendants in California and who
21 left their employment during the three years immediately preceding the
22 filing of the Complaint through the date of trial. (“Waiting Time Penalty
Subclass”)

23 (collectively “the Classes”)

24 38. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
25 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
26 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
27 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
28 Defendants’ employment and payroll records.

1 39. **Common Questions of Law and Fact Predominate/Well-Defined Community of**

2 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
3 non-exempt employees, which predominate over questions affecting only individual members
4 including, without limitation to:

5 1. Whether Defendants failed to properly calculate the “regular rate of pay” for purposes
6 of paying overtime and sick pay wages to the members of the Class;

7 2. Whether Defendants provided legally compliant meal and rest periods or proper
8 compensation at the “regular rate of pay” in lieu thereof to members of the Class;

9 3. Whether Defendants furnished legally compliant wage statements to members of the
10 Wage Statement Subclass pursuant to Labor Code § 226(a); and

11 4. Whether the timing and amount of payment of final wages to members of the Waiting
12 Time Penalty Subclass at the time of separation from employment were unlawful.

13 40. **Predominance of Common Questions:** Common questions of law and fact
14 predominate over questions that affect only individual members of the Classes. The common
15 questions of law set forth above are numerous and substantial and stem from Defendants’ policies
16 and/or practices applicable to each individual class member, such as, without limitation, Defendants’
17 failure to properly pay overtime and sick pay wages, v failure to provide all compliant meal and rest
18 periods or premiums at the “regular rate of pay” in lieu thereof, Defendants’ failure to provide
19 accurate itemized wage statements, Defendants’ failure to pay wages timely, and Defendants’ failure
20 to pay for all wages due upon separation of employment. As such, the common questions predominate
21 over individual questions concerning each class member’s showing as to his or her eligibility for
22 recovery or the amount of his or her damages.

23 41. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
24 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
25 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein,
26 Plaintiff, like the members of the Classes, was deprived of overtime and sick pay wages, was deprived
27 of meal and rest period premium wages, was subject to Defendants’ uniform meal and rest period
28 policies/practices, was not provided accurate itemized wage statements, and was not timely paid all

1 wages owed upon separation of employment.

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

8 43. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
9 important public interest in establishing minimum working conditions and standards in California.
10 These laws and labor standards protect the average working employee from exploitation by
11 employers who have the responsibility to follow the laws and who may seek to take advantage of
12 superior economic and bargaining power in setting onerous terms and conditions of employment. The
13 nature of this action and the format of laws available to Plaintiff and members of the Classes make
14 the class action format a particularly efficient and appropriate procedure to redress the violations
15 alleged herein. If each employee were required to file an individual lawsuit, Defendants would
16 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the
17 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

18 44. Moreover, requiring each member of the Classes to pursue an individual remedy would
19 also discourage the assertion of lawful claims by employees who would be disinclined to file an action
20 against their former and/or current employer for real and justifiable fear of retaliation and permanent
21 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
22 the individual class members, even if possible, would create a substantial risk of inconsistent or
23 varying verdicts or adjudications with respect to the individual class members against Defendants
24 herein and which would establish potentially incompatible standards of conduct for Defendants;
25 and/or legal determinations with respect to individual class members which would, as a practical
26 matter, be dispositive of the interest of the other class members not parties to adjudications or which
27 would substantially impair or impede the ability of the class members to protect their interests.
28 Further, the claims of the individual members of the class are not sufficiently large to warrant

1 vigorous individual prosecution considering all of the concomitant costs and expenses attending
2 thereto. As such, the Classes identified in Paragraph 36 are maintainable as Classes under § 382 of
3 the Code of Civil Procedure.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY ALL OVERTIME WAGES**

6 **(AGAINST ALL DEFENDANTS)**

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

8 46. This cause of action is brought pursuant to Labor Code §§ 204, 210, 510, 558, 1194,
9 and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime
10 hours worked and provide a private right of action for the failure to pay all overtime compensation
11 for overtime work performed off-the-clock. In addition, Defendants paid an improper overtime rate
12 of less than one and one-half times the regular rate of pay.

13 47. At all times relevant herein, Defendants was required to properly pay Plaintiff and
14 members of the Overtime Subclass for all overtime hours worked pursuant to California Labor Code
15 § 1194 and the applicable Wage Orders.

16 48. Section 3 of the applicable Wage Order requires an employer to pay an employee “one
17 and one-half (1 1/2) times the employee’s regular rate of pay” for work in excess of 8 hours per
18 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
19 employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve
20 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in
21 the workweek. Defendants caused Plaintiff to work overtime and hours but did not compensate
22 Plaintiff or members of the Overtime Subclass at one and one-half times their “regular rate of pay”
23 for such hours.

24 49. Defendants failed to conform their pay practices to the requirements of the law. At all
25 relevant times herein, Defendants failed to conform their pay practices to the requirements of the law.
26 This unlawful conduct includes but is not limited to, Defendants’ failure to include all forms of
27 compensation, including, but not limited to, non-discretionary bonuses and other incentive pay in
28 calculating the “regular rate of pay,” which resulted in these individuals not being paid for all

1 overtime hours worked.

2 50. The foregoing policies and practices are unlawful and create an entitlement to recovery
3 by Plaintiff and the members of the Overtime Subclass in a civil action for the unpaid amount of
4 overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit
5 according to Labor Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code
6 of Civil Procedure § 1021.5.

7 **SECOND CAUSE OF ACTION**

8 **MEAL PERIOD VIOLATIONS**

9 **(AGAINST ALL DEFENDANTS)**

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

11 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in
12 their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff
13 and members of the Class, with all required meal periods in accordance with the mandates of the
14 California Labor Code and applicable Wage Orders, for the reasons set forth in the Common
15 Allegations section of this Complaint.

16 53. Despite Defendants' violations, Defendants have not paid an additional hour of pay at
17 the "regular rate of pay" to Plaintiff and Class members at their respective regular rates of pay for
18 each violation, per California Labor Code § 226.7.

19 54. As a result, Defendants is responsible for paying premium compensation for meal
20 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the
21 applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b) and 3289.

22 **THIRD CAUSE OF ACTION**

23 **REST PERIOD VIOLATIONS**

24 **(AGAINST ALL DEFENDANTS)**

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

26 56. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516 establish
27 the right of non-exempt employees to be provided with a rest period of at least ten (10) minutes for
28 each four (4) hour period worked, or major fraction thereof.

1 57. Due to their unlawful rest period policy/practices and operational requirements/work
2 demands, Defendants did not authorize and permit Plaintiff and Class members to take all rest periods
3 to which they were legally entitled.

4 58. Despite Defendants' violations, Defendants have not paid an additional hour of pay at
5 the "regular rate of pay" to Plaintiff and Class members at their respective regular rates of pay for
6 each violation, per California Labor Code § 226.7.

7 59. The foregoing violations create an entitlement to recovery by Plaintiff and members
8 of the Class in a civil action for the unpaid amount of rest period premiums owing, including interest
9 thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§
10 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

11 **FOURTH CAUSE OF ACTION**

12 **FAILURE TO PAY ALL SICK TIME**

13 **(AGAINST ALL DEFENDANTS)**

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

15 61. This cause of action is brought pursuant to Labor Code §§ 246, 558, 1194.2, 1197.1,
16 1198, and 1199 which provide that "[a]n employee who, on or after July 1, 2015, works in California
17 for the same employer for 30 or more days within a year from the commencement of employment is
18 entitled to paid sick days. . . at the rate of not less than one hour per every 30 hours worked, beginning
19 at the commencement of employment."

20 62. At all times relevant herein, Defendants were required to properly pay Plaintiff and
21 Class members for all sick time pursuant to California Labor Code § 246 and the applicable Wage
22 Orders.

23 63. Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must
24 be "calculated in the same manner as the regular rate of pay for the workweek in which the employee
25 uses paid sick time, whether or not the employee actually works overtime in that workweek."
26 Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated by dividing
27 the employee's total wages, not including overtime premium pay, by the employee's total hours
28 worked in the full pay periods of the prior 90 days of employment." Finally, Labor Code §246(i)

1 requires employers to “provide an employee with written notice that sets forth the amount of paid
2 sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either
3 the employee’s itemized wage statement described in Section 226 or in a separate writing provided
4 on the designated pay date with the employee’s payment of wages.”

5 64. Defendants failed in their obligation to provide Plaintiff and the Class the legally
6 required paid sick days at the legal rate pursuant to Labor Code §§ 246(a),(b). Plaintiff and the Class
7 members were not paid at the correct “regular rate of pay.”

8 65. The foregoing policies and practices are unlawful and create an entitlement to recovery
9 by Plaintiff and the members of the Class in a civil action for the unpaid amount of wages, including
10 interest thereon, statutory penalties, attorney’s fees, and costs of suit according to Labor Code §§ 246
11 1192, 1194 *et seq.*, 1197, 1198, the applicable Wage Orders, and Code of Civil Procedure § 1021.5.

12 **FIFTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

14 **(AGAINST ALL DEFENDANTS)**

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

16 67. Labor Code 226(a) states in pertinent part the following:

17 “(a) An employer, semimonthly or at the time of each payment of wages,
18 shall furnish to his or her employee, either as a detachable part of the check,
19 draft, or voucher paying the employee’s wages, or separately if wages are
20 paid by personal check or cash, an accurate itemized statement in writing
21 showing (1) gross wages earned, (2) total hours worked by the employee,
22 (3) the number of piece-rate units earned and any applicable piece rate if the
23 employee is paid on a piece-rate basis, (4) all deductions, provided that all
24 deductions made on written orders of the employee may be aggregated and
25 shown as one item, (5) net wages earned, (6) the inclusive dates of the
26 period for which the employee is paid, (7) the name of the employee and
27 only the last four digits of his or her social security number or an employee
28 identification number other than a social security number, (8) the name and
address of the legal entity that is the employer, and (9) all applicable hourly
rates in effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.”

68. As set forth above, during the Class Period, Defendants issued and continues to issue
wage statements to its employees, including Plaintiff and members of the Wage Statement Subclass,

1 which are inadequate under Labor Code Section § 226(a).

2 69. As a result of Defendants' failure to pay Plaintiff and the Wage Statement Subclass
3 for all overtime, sick pay wages, and missed meal and rest period premiums at the appropriate legal
4 rate, Defendants failed to include required information on Plaintiff and the Wage Statement Subclass'
5 wage statements, including, but not limited to, the gross wages earned, the net wages earned in
6 violation of Labor Code section 226(a), (1,2,5,6 and 9).

7 70. In addition, the wage statements provided to Plaintiff and other non-exempt
8 employees fail to state the name and address of the legal entity that is the employer in violation of
9 Labor Code section 226(a)(8).

10 71. Defendants' failure to comply with section 226(a) of the Labor Code was knowing
11 and intentional.

12 72. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff
13 and members of the Wage Statement Subclass in violation of section 226(a) of the California Labor
14 Code, Plaintiff and members of the Wage Statement Subclass are each entitled to recover an initial
15 penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty
16 of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendants'
17 pursuant to section 226(e) of the Labor Code, costs and reasonable attorneys' fees.

18 **SIXTH CAUSE OF ACTION**

19 **WAITING TIME PENALTIES**

20 **(AGAINST ALL DEFENDANTS)**

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

22 74. The actionable period for this cause of action is three years before filing this Complaint
23 through the present and ongoing until the violation is corrected or the class is certified.

24 75. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and owing
25 to Plaintiff and the Waiting Time Subclass during the actionable period for this cause of action at or
26 around the time their employment is terminated or ended.

27 76. Labor Code § 203 provides that if an employer willfully fails to pay compensation
28 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, the

1 employer is liable for penalties for continued compensation up to thirty (30) workdays.

2 77. Defendants willfully failed to pay the Waiting Time Subclass for all hours worked,
3 including all minimum and overtime, sick pay wages, and their meal and rest period premiums at the
4 “regular rate of pay” before or upon termination or separation from employment with Defendants as
5 required by Labor Code §§ 201 and 202.

6 78. As a result, Defendants is liable to the Waiting Time Subclass for waiting time penalties
7 amounting to thirty (30) days wages for Plaintiff and the Waiting Time Subclass pursuant to Labor
8 Code § 203. *See, e.g.,* DLSE Manual, 4.3.4 (Failure to pay any sort of wages due upon termination
9 entitles an employee to recover waiting time penalties).

10 **SEVENTH CAUSE OF ACTION**

11 **UNFAIR COMPETITION**

12 **(AGAINST ALL DEFENDANTS)**

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

14 80. Defendants have engaged and continue to engage in unfair and/or unlawful business
15 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
16 failing to pay all overtime and sick pay wages at the proper legal rate, by failing to provide all legally
17 required meal and rest periods or pay premium payments at the “regular rate of pay” in lieu thereof,
18 by failing to provide accurate wage statements, and by failing to pay all earned wages at the time of
19 separation from employment.

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

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

83. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

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

EIGHT CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

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

86. Defendants have committed several Labor Code violations against Plaintiff and other similarly aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 et seq., acting on behalf of himself and other similarly aggrieved employees, brings this PAGA representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided based on the following Labor Code violations:

a) Failing to pay Plaintiff and other similarly Aggrieved Employees all overtime and sick pay wages at the appropriate premium rates in violation of Labor Code §§ 246, 510, 1194, 1197;

b) Failing to provide Plaintiff and other similarly Aggrieved Employees with all of their statutorily-mandated meal periods in violation of Labor Code §§ 204, 510, 1194 and 1198;

c) Failing to authorize and permit Plaintiff and other similarly Aggrieved employees with all of their statutorily-mandated rest periods in violation of Labor Code §§ 226.7 and 516;

d) Failing to furnish Plaintiff and other similarly situated employees with complete, accurate, itemized wage statements in violations of Labor Code § 226(a) and applicable Wage Orders; and

1 e) Failing to pay final wages in a timely manner in violation of Labor Code §§ 201-203
2 and applicable Wage Orders

3 87. On or about January 12, 2024, Plaintiff notified Defendants Celestica, LLC. and the
4 California Labor and Workforce Development Agency (“LWDA”) via email of Defendants’
5 violations of the California Labor Code § 2698 et seq., with respect to violations of the California
6 Labor Code identified in Paragraph 82 (a)-(e). Now that sixty-five days have passed since Plaintiff
7 notified Defendants of these violations, Plaintiff has exhausted his administrative requirements for
8 bringing a claim under the Private Attorneys General Act with respect to these violations.

9 88. Plaintiff was compelled to retain the services of counsel to file this court action to
10 protect his interests and the interests of similarly aggrieved employees, and to assess and collect the
11 civil penalties owed by Defendants. Plaintiff has hereby incurred attorneys’ fees and costs, which he
12 is entitled to receive under California Labor Code § 2699.

13 **PRAYER FOR RELIEF**

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

- 16 1. For an order certifying the proposed Classes;
- 17 2. For an order appointing Plaintiff as representative of the Classes;
- 18 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 19 4. Upon the First Cause of Action for compensatory, consequential, general, and
20 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 1194, and 1198 and
21 reasonable attorneys’ fees and costs;
- 22 5. Upon the Second and Third Causes of Action for compensatory, consequential,
23 general, and special damages according to proof pursuant to Labor Code §§ 226.7 and 512;
- 24 6. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
25 special damages according to proof pursuant to Labor Code §§ 246, 558, 1194.2, 1198, and 1199;
- 26 7. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 226(a), and
27 reasonable costs and attorney's fees;
- 28 8. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to

1 Labor Code §§ 201-203;

2 9. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
3 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
4 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

5 10. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other similarly
6 Aggrieved Employees, and the State of California according to proof pursuant to Labor Code § 2699
7 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation and \$200 for each
8 subsequent violation per employee per pay period for those violations of the Labor Code for which
9 no civil penalty is specifically provided under the Labor Code, and for reasonable attorneys' fees and
10 costs;

11 11. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
12 § 218.6 and Civil Code §§ 3287 and 3289;

13 12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
14 218.5, 226, 1194, Code of Civil Procedure § 1021.5; and

15 13. For such other relief that the Court may deem just and proper.

16
17 Dated: May 31, 2024

FALAKSSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

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19
20 By: _____

21 Joshua Falakassa, Esq.
22 Mehrdad Bokhour, Esq.
23 Attorneys for Plaintiff and the Putative Classes
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the action; my business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, California 90067.

On June 5, 2024, I served the following document(s) described as **FIRST AMENDED CLASS AND PAGA ACTION COMPLAINT** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Alexander Hernaez, Esq.
ahernaez@FoxRothschild.com
Steven W. Moore, Esq.
swmoore@foxrothschild.com
Cody T. Stroman, Esq.
codystroman@foxrothschild.com
Ryan M. Parker, Esq.
Rparker@FoxRothschild.com
FOX ROTHSCHILD, LLP
345 California Street, Suite 2200
San Francisco, California 94104

Counsel for defendant Celestica, LLC

BY ELECTRONIC SERVICE: I transmitted the above-referenced document(s) via electronic service provider First Legal to the person(s) identified above at the email address(es) indicated and did not, within a reasonable time after transmission, receive any message or communication indicating that delivery failed or that any other error had occurred which would delay or caused failure in transmission and delivery of the document and/or any attachments thereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 5, 2024, at Los Angeles, California.

/s/ Cynthia Garcia

Cynthia Garcia