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Attorneys for Plaintiff FRANK J LEON GUERRERO,
on behalf of himself and current and former aggrieved employees

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

FRANK J LEON GUERRERO, on behalf of
himself and current and former aggrieved
employees

Plaintiff,

vs.

SANMINA CORPORATION; and DOES 1 to
100, inclusive,

Defendants.

Case No.: **24CV101296**

PAGA ACTION

**PLAINTIFF FRANK J LEON
GUERRERO'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff FRANK J LEON GUERRERO ("Plaintiff"), who alleges and
complains on information and belief except as to those allegations relating to plaintiff himself, which
are asserted on personal knowledge, against Defendants SANMINA CORPORATION; and DOES
1 to 100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1 1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
2 (“PAGA”) representative action brought by Plaintiff on behalf of the State of California, himself
3 and other current and former aggrieved employees of Defendants who worked as hourly non-exempt
4 employees in California during the relevant time period seeking civil penalties associated with
5 Defendants’ violation of the Labor Code based on Defendants’ failure to pay wages for all hours
6 worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to
7 authorize or permit all legally required and/or compliant meal periods or pay meal period premium
8 wages; failure to authorize or permit all legally required and/or compliant rest periods or pay rest
9 period premium wages; failure to timely pay earned wages during employment; statutory penalties
10 for failure to provide accurate wage statements; statutory waiting time penalties in the form of
11 continuation wages for failure to timely pay employees all wages due upon separation of
12 employment. Plaintiff seeks on a representative basis, following notice to the Labor and Workforce
13 Development Agency, civil penalties, reasonable attorneys’ fees pursuant to Labor Code section
14 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

15 **II. JURISDICTION AND VENUE**

16 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
17 former aggrieved California-based hourly non-exempt employees because Plaintiff’s lawsuit seeks
18 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
19 non-exempt employees, and the State of California in excess of thirty-five thousand dollars
20 (\$35,000); Defendants employed Plaintiff and all other current and former aggrieved California-
21 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
22 aggrieved California-based hourly non-exempt employees occurred in locations throughout
23 California, including but not limited to Alameda County, at 42735 Christy Street, Fremont, CA
24 94538.

25 **III. PARTIES**

26 3. Plaintiff brings this action as a representative of the Labor and Workforce
27 Development Agency on behalf of himself and other current and former employees subject to
28 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is

1 filed include current, former and/or future employees of Defendants who work, worked, or will work
2 for Defendants as direct employees as well as temporary employees employed through temp
3 agencies as hourly non-exempt employees in California. At all times mentioned herein, the currently
4 named Plaintiff is and was domiciled and a resident and citizen of California and was employed by
5 Defendants in an hourly position at Defendants' location in Alameda County from approximately
6 March 27, 1996, until on or about August 7, 2024.

7
8 4. Defendant SANMINA CORPORATION is authorized to do business within the
9 State of California and is doing business in the State of California and/or that Defendants DOES 1-
10 50 are, and at all times relevant hereto were persons acting on behalf of Defendant SANMINA
11 CORPORATION in the establishment of, or ratification of, the aforementioned illegal wage and
12 hour practices or policies. Defendant SANMINA CORPORATION operates in Alameda County
13 and employed Plaintiff and aggrieved employees in Alameda County, including but not limited to,
14 at 42735 Christy Street, Fremont, CA 94538.

15 5. Defendants DOES 1 through 50 are corporations or other business entities or
16 organizations of a nature unknown to Plaintiff that employed Plaintiff and aggrieved California non-
17 exempt employees, permitted Plaintiff and aggrieved employees to work, and exercised control over
18 the wages, hours and working conditions of employment of Plaintiff and aggrieved employees.

19 6. Defendants DOES 51 through 100 are individuals unknown to Plaintiff. Each
20 Defendant is sued individually and in their capacity as an agent, shareholder, owner, representative,
21 manager, supervisor, independent contractor and/or employee of each defendant who violated or
22 caused to be violated the minimum wage and overtime provisions of the Labor Code and/or any
23 provision of the Industrial Welfare Commission's wage orders regulating hours and days of work.

24 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
25 sues said defendants by said fictitious names and will amend this complaint when the true names
26 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
27 permitted by law or by the Court. Each fictitiously named defendant is in some manner responsible
28 for the events and allegations set forth in this complaint.

8. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION

**CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF
2004, LABOR CODE SECTIONS 2698, ET SEQ.**

**(Against all Defendants by Plaintiff on behalf of Themselves, the State of California, and
Other Current and Former Aggrieved Employees)**

9. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

10. During Plaintiff's employment and continuing through the present, Plaintiff alleges Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 510, 512, 1194, and 1197, and the applicable Wage Orders.

11. Specifically, Defendants have committed the following violations of California Labor Code:

12. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

13. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the Wage Orders.

14. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all

1 hours worked due to Defendants' policies, practices, and/or procedures including, but not limited
2 to:

3 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
4 non-exempt employees to travel to a designated area away from their workstations during their meal
5 periods. Defendants did not elongate or otherwise extend Plaintiff's and other current and former
6 aggrieved California-based hourly non-exempt employees' meal period times to account for travel
7 time between their workstations and the designated break area resulting in meal periods less than at
8 least 30 minutes.

9
10 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
11 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
12 control without paying wages for that time. This resulted in Plaintiff and other current and former
13 aggrieved California-based hourly non-exempt employees working time for which they were not
14 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
15 Wage Order.

16 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
17 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
18 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
19 which includes all time that an employee is under control of the employer and all time the employee
20 is suffered and permitted to work. This includes the time an employee spends, either directly or
21 indirectly, performing services that inure to the benefit of the employer.

22 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
23 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40)
24 hours in a workweek, and on any seventh consecutive day of work in a workweek:

25 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours
26 in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in
27 any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half
28 (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours
in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay
for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a
workweek shall be compensated at the rate of no less than twice the regular rate of pay of an
employee. Labor Code § 510.

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3 18. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved
4 California-based hourly non-exempt employees overtime wages for all overtime hours worked due
5 to Defendants' policies, practices, and/or procedures including, but not limited to:

6 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
7 non-exempt employees to travel to a designated area away from their workstations during their meal
8 periods. Defendants did not elongate or otherwise extend Plaintiff's and other current and former
9 aggrieved California-based hourly non-exempt employees' meal period times to account for travel
10 time between their workstations and the designated break area resulting in meal periods less than at
11 least 30 minutes.

12 19. The foregoing policies, practices, and/or procedures resulted in time during each
13 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
14 employees were under the control of Defendants but were not compensated. To the extent that the
15 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
16 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
17 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
18 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
19 sections 510, 1194 and 1198, and the applicable Wage Order.

20 20. **Failure to pay wages to hourly non-exempt employees for workdays that**
21 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
22 current and former aggrieved California-based hourly non-exempt employees regularly worked
23 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

24 21. California law requires an employer to authorize or permit an employee an
25 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
26 all duties and the employer relinquishes control over the employee's activities prior to the
27 employee's sixth hour of work. Labor Code §§ 226.7, 512, and 1198; Wage Order 16 at § 11; *Brinker*
28 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
employee for a work period of more than ten (10) hours per day without providing the employee

1 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
2 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
3 shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal
4 period is only permitted when: (1) the nature of the work prevents an employee from being relieved
5 of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

6 22. If an employer fails to provide an employee a meal period in accordance with the
7 law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay
8 for each workday that a legally required and compliant meal period was not provided. Labor Code
9 §§ 226.7 and 1198; Wage Order 16 at § 11.

10 23. In this case, Defendants failed to authorize or permit legally required and compliant
11 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
12 exempt employees due to Defendants’ policies, practices, and/or procedures, including but not
13 limited to:

14 (a) Requiring Plaintiff and other current and former aggrieved California-based
15 hourly non-exempt employees to travel to a designated area away from their workstations during
16 their meal periods. Defendants did not elongate or otherwise extend Plaintiff’s and other current and
17 former aggrieved California-based hourly non-exempt employees’ meal period times to account for
18 travel time between their workstations and the designated break area resulting in meal periods less
19 than at least 30 minutes.

20 24. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
21 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
22 hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each workday that
23 Plaintiff and/or other current and former aggrieved California-based hourly non-exempt employees
24 did not receive legally required and compliant meal periods, in violation of Labor Code section
25 226.7.

26 25. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
27 and/or other current and former aggrieved California-based hourly non-exempt employees not
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1 receiving wages to compensate them for workdays during which Defendants did not provide them
2 with meal periods in compliance with California law.

3 26. **Failure to pay wages to hourly non-exempt employees for workdays that**
4 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
5 current and former aggrieved California-based hourly non-exempt employees regularly worked
6 shifts of more than three-and-a-half (3.5) hours.

7 27. California law requires every employer to authorize and permit an employee a rest
8 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code
9 § 226.7; Wage Order 16 at § 12. Under California law, “[e]mployees are entitled to 10 minutes’ rest
10 for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours
11 up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker*
12 *Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code § 226.7; Wage
13 Order 16 at § 12. Rest periods, insofar as practicable, shall be in the middle of each work period.
14 Wage Order 16 at § 12. Additionally, the rest period requirement “obligates employers to permit –
15 and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*,
16 (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all
17 duties and relinquish control over how employees spend their time. *Id.*

18 28. If the employer fails to authorize or permit a required rest period, the employer must
19 pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the
20 employer did not authorize or permit a legally required rest period. Labor Code § 226.7; Wage Order
21 16 at § 12.

22 29. In this case, Defendants failed to authorize or permit all legally required and
23 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
24 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
25 limited to:

26 (a) Requiring Plaintiff and other current and former aggrieved California-based
27 hourly non-exempt employees to remain on the premises during their rest periods, resulting in rest
28 periods that were not duty-free.

1 30. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
2 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
3 hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each workday
4 they did not receive legally required and compliant rest periods, in violation of Labor Code section
5 226.7.

6 31. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff and
7 other current and former aggrieved California-based hourly non-exempt employees not receiving
8 wages to compensate them for workdays in which Defendants did not provide them with rest periods
9 in compliance with California law.

10 32. **Failure to timely pay earned wages during employment:** In California, wages
11 must be paid at least twice during each calendar month on days designated in advance by the
12 employer as regular paydays, subject to some exceptions. Labor Code § 204(a). Wages earned
13 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and
14 the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any
15 calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll
16 periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7)
17 calendar days following the close of the payroll period in which wages were earned. Labor Code §
18 204(d).

19 33. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
20 timely pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
21 employees their earned wages (including minimum wages, overtime wages, meal period premium
22 wages and/or rest period premium wages), in violation of Labor Code section 204. Defendants'
23 aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiff and
24 other current and former aggrieved California-based hourly non-exempt employees their earned
25 wages within the applicable time frames outlined in Labor Code section 204.

26 34. **Secret payment of lower wages than designated by statute:** Labor Code section
27 223 provides that, where any statute or contract requires an employer to maintain the designated
28 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage

1 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including by
2 failing to: pay overtime wages at the applicable legal overtime rate, meal break premiums and lawful
3 sick pay at the employees' regular rate of pay, as established by Labor Code sections 226.7, 246,
4 510, 1194 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by Labor
5 Code section 1198, Defendants secretly paid a lower wage than designated by statute while
6 purporting to pay the wages designated by statute, in violation of Labor Code section 223.

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8 **35. Failure to provide complete and accurate wage statements:** Labor Code section
9 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee
10 his or her wages, the employer must "furnish each of his or her employees ... an itemized statement
11 in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
12 employee whose compensation is solely based on a salary and who is exempt from payment of
13 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
14 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee
15 is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders
16 of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
17 dates of the pay period for which the employee is paid, (7) the name of the employee and his or her
18 social security number, (8) the name and address of the legal entity that is the employer, and (9) all
19 applicable hourly rates in effect during the pay period and the corresponding number of hours
20 worked at each hourly rate by the employee."

21 **36.** As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
22 and other current and former aggrieved California-based hourly non-exempt employees all wages
23 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest period
24 premium wages) rendered Plaintiff's and other current and former aggrieved California-based
25 hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code section
26 226(a)(1, 2, 5 & 9).

27 **37. Failure to pay employees all wages due at time of termination/resignation:** An
28 employer is required to pay all unpaid wages timely after an employee's employment ends. The

1 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
2 hours of resignation (Labor Code section 202).

3 38. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
4 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all
5 of their earned wages (including minimum wages, overtime wages, meal period premium wages,
6 and/or rest period premium wages), Defendants failed to pay those employees timely after each
7 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

8 39. Labor Code sections 2699, subdivisions (a) and (g), authorize an aggrieved
9 employee, on behalf of himself or herself and other current or former employees, to bring a civil
10 action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor
11 Code section 2699.3.

12 40. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
13 section 2699.3. On September 21, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA and
14 provided notice to Defendants by certified mail which provided notice of the specific provisions of
15 the Labor Code alleged to have been violated, including the facts and theories to support the
16 violations alleged.

17 41. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
18 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
19 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
20 parties notice within 65 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
21 to investigate Plaintiff's claims.

22 42. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
23 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7,
24 510, 512, and 1194, During Plaintiff's employment and continuing through the present, preceding
25 Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following
26 amounts:

27 a. For violations of Labor Code sections 201, 202, 203, 226(a), and 226.7; one
28 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two

1 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation
2 [penalty amounts established by Labor Code section 2699(f)(2)].

3 b. For violations of Labor Code section 226(a), alternatively, two hundred fifty
4 dollars (\$250) for each employee for each pay period for the initial violation, and one thousand
5 dollars (\$1,000) for each subsequent violation, for each underpaid employee for each pay period
6 [penalty amounts established by Labor Code section 226.3].

7 c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for each
8 employee for each pay period for the initial violation, and one hundred dollars (\$100) for each
9 subsequent violation, for each underpaid employee for each pay period [penalty amounts established
10 by Labor Code section 558].

11 d. For violations of Labor Code section 204, one hundred dollars (\$100) for
12 each failure to pay each employee in any initial violation, and two hundred dollars (\$200) for each
13 subsequent violation, or any willful or intentional violation, for each failure to pay each employee,
14 plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code
15 section 210].

16 e. For violations of Labor Code section 223, one hundred dollars (\$100) for
17 each failure to pay each employee in any initial violation, and two hundred dollars (\$200) for each
18 subsequent violation, or any willful or intentional violation, for each failure to pay each employee,
19 plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code
20 section 225.5].

21 43. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
22 reasonable attorneys' fees and costs in connection with his/her claims for civil penalties.
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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to sections 210, 225.5, 226.3, 558, 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: November 26, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP



By: _____

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