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ELECTRONICALLY FILED
Superior Court of California,
County of Alameda
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Deputy Clerk

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

Chanielle Enomoto, as a representative
of the State of California,

Plaintiff,

vs.

Siemens Industry, Inc.; and Does 1
through 20, inclusive,

Defendants.

Case No. 22CV022814

**REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATIONS OF
THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LABOR
CODE §§ 2698, ET SEQ.)**

1 Plaintiff Chanielle Enomoto, as a representative of the State of California,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Chanielle Enomoto (“Plaintiff”) brings this representative action
5 against defendants Siemens Industry, Inc. and Does 1 through 20, inclusive (collectively,
6 “Defendants”), on behalf of all California-based aggrieved employees during the “Relevant
7 Time Period” (defined as one year before Plaintiff gave notice of these claims to the
8 California Labor and Workforce Development Agency (“LWDA”) up to and including the
9 date of commencement of trial) who incurred wage and hour violations and losses herein
10 after described.

11 2. On March 1, 2022, Plaintiff gave notice of these claims to the LWDA and to
12 the agent for service of process for each Defendant. Plaintiff has not received any response
13 from the LWDA indicating that it intends to investigate these claims. Accordingly, Plaintiff
14 has exhausted all notice requirements under the PAGA.

15 3. Through this action, Plaintiff alleges that Defendant has engaged in a
16 systematic pattern of wage and hour violations under the California Labor Code (“Labor
17 Code”).

18 4. Plaintiff is informed and believes, and thereon alleges, during the relevant
19 time period, Defendants had a consistent policy of violating state wage and hour laws by,
20 among other things:

- 21 (a) Failing to pay all minimum wages owed;
- 22 (b) Failing to pay all overtime wages owed;
- 23 (c) Failure to pay all commissions earned;
- 24 (d) Failing to provide meal periods, or compensation in lieu thereof;
- 25 (e) Failing to provide rest breaks, or compensation in lieu thereof;
- 26 (f) Failing to provide accurate itemized wage statements;
- 27 (g) Failing to reimburse for all business expenses;

28 //

1 (h) Failing to timely pay all wages and commissions due upon separation of
2 employment;

3 (i) Failure to provide written contracts for commissioned employees; and

4 (j) Unlawful wage deductions.

5 5. Plaintiff brings this representative action seeking monetary relief against
6 Defendants on behalf of herself and other aggrieved employees to recover, among other
7 things, penalties, attorney's fees, costs and expenses pursuant to the Private Attorneys
8 General Act of 2004, Labor Code § 2698, et seq. ("PAGA").

9 **JURISDICTION AND VENUE**

10 6. The relief sought by Plaintiff exceed the minimal jurisdictional limits of the
11 Superior Court and will be established according to proof at trial.

12 7. The Superior Court has jurisdiction over this action pursuant to the
13 California Constitution, Article VI, § 10, which grants the Superior Court original
14 jurisdiction in all causes, except those given by statutes to other courts. The statutes under
15 which this action is brought do not specify any other basis for jurisdiction.

16 8. The Superior Court has jurisdiction over all Defendants because, upon
17 information and belief, they are citizens of California, have sufficient minimum contacts in
18 California, or otherwise intentionally avail themselves of the California market so as to
19 render the exercise of jurisdiction over them by the California courts consistent with
20 traditional notions of fair play and substantial justice.

21 9. Venue is proper in this Court because, upon information and belief,
22 Defendants reside, transact business or have offices in this county and the acts and
23 omissions alleged herein took place in this county. Further, Defendant failed to file and
24 obtain a certificate of qualification and designate its principal place of business in
25 California. As a foreign corporation that is not qualified to do business in California, it may
26 be sued in any county in the state. *Easton v. Superior Court*, 12 CA3d 243, 90 CR 642
27 (1970). Moreover, a PAGA action may be filed in any county in which aggrieved
28 employees worked for a defendant. *Crestwood Behavioral Health, Inc. v. Superior Court*,

1 (2021) 60 Cal. App. 5th 1069, 1076.

2 **THE PARTIES**

3 10. Plaintiff was a citizen of California when she worked for Defendant.
4 Plaintiff worked for Defendant from approximately February of 2020 to March of 2020.
5 Plaintiff was employed by Defendants in California during the Relevant Time Period.

6 11. Plaintiff is informed and believes, and thereon alleges, that Defendants at all
7 times hereinafter mentioned, were and are employers as defined in and subject to the Labor
8 Code and IWC Wage Orders, whose employees were and are engaged throughout this
9 county and the State of California.

10 12. Defendant Siemens Industry, Inc. is a Delaware corporation doing business
11 in the state of California.

12 13. Plaintiff is informed and believes, and thereon alleges, that at all times
13 mentioned herein, Defendants were advised by skilled lawyers, employees, and other
14 professionals who were knowledgeable about California's wage and hour laws,
15 employment and personnel practices, and the requirements of California law.

16 14. Plaintiff is unaware of the true names or capacities of the Defendants sued
17 herein under the fictitious names Does 1 through 20, but will seek leave of this Court to
18 amend this Complaint and serve such fictitiously named Defendants once their names and
19 capacities become known.

20 15. Plaintiff is informed and believes, and thereon alleges, that each Defendant
21 acted in all respects pertinent to this action as the agent of the other Defendant, carried out
22 a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
23 defendant are legally attributable to the other defendant. Furthermore, Defendants in all
24 respects acted as the employer and/or joint employer of Plaintiff and the class members.

25 16. Plaintiff is informed and believes, and thereon alleges, that each and all of
26 the acts and omissions alleged herein were performed by, or are attributable to, Defendants
27 and/or Does 1 through 20, acting as the agent or alter ego for the other, with legal authority
28 to act on the other's behalf. The acts of any and all Defendants were in accordance with,

1 and represent, the official policy of Defendants.

2 17. At all relevant times, Defendants, and each of them, acted within the scope
3 of such agency or employment, or ratified each and every act or omission complained of
4 herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and
5 omissions of each and all the other Defendants in proximately causing the damages herein
6 alleged.

7 18. Plaintiff is informed and believes, and thereon alleges, that each of said
8 Defendants is in some manner intentionally, negligently or otherwise responsible for the
9 acts, omissions, occurrences and transactions alleged herein.

10 **GENERAL ALLEGATIONS**

11 19. At all relevant times mentioned herein, Defendant employed Plaintiff and
12 other aggrieved employees.

13 20. Defendant employed Plaintiff during the relevant time period.

14 21. Plaintiff is informed and believes, and thereon alleges, that at all times
15 mentioned herein, Defendant was advised by skilled lawyers, employees, and other
16 professionals who were knowledgeable about California's wage and hour laws,
17 employment and personnel practices, and the requirements of California law.

18 22. Through this action, Plaintiff alleges that Defendant has engaged in a
19 systematic pattern of wage and hour violations under the California Labor Code and IWC
20 Wage Orders.

21 23. At all relevant times, Defendant misclassified Plaintiff and other aggrieved
22 employees as exempt from California's wage and hour protections related to the payment
23 of overtime, providing of meal breaks and the providing of rest breaks.

24 24. As part of Defendant's policy and practice of misclassification, Defendant
25 failed to compensate Plaintiff and aggrieved employees for all hours worked, including all
26 minimum wages and overtime compensation. Indeed, Defendant failed to properly identify,
27 record, or compensate Plaintiff and aggrieved for all hours spent performing compensable,
28 job-related activities.

1 25. Defendant failed to provide meal and rest in violation of California law.
2 When aggrieved employees did not receive a timely and compliant meal and/or rest break,
3 Defendants failed to pay an additional hour of pay at the regular rate of pay to the aggrieved
4 employees.

5 26. Defendant intentionally and knowingly failed to provide accurate wage
6 statements in compliance with Labor Code § 226(a). The deficiencies include, among other
7 things, the failure to correctly state the gross and net wages earned and the number of hours
8 worked at each hourly rate by Plaintiff and aggrieved employees.

9 27. Defendant failed to reimburse Plaintiff and aggrieved employees for all
10 business expenses, including home internet, automobile and cell phone costs.

11 28. Defendant failed to pay Plaintiff and aggrieved employees all wages and
12 commissions they are owed.

13 **FIRST CAUSE OF ACTION**

14 **ENFORCEMENT OF THE LABOR CODE § 2698, ET SEQ. ("PAGA")**

15 29. Plaintiff hereby re-alleges and incorporates by reference all paragraphs
16 above as though fully set forth herein.

17 30. Plaintiff asserts claims for civil penalties as a representative of the State of
18 California, as authorized by the Private Attorneys General Act of 2004 ("PAGA"), and to
19 the extent permitted by law, on behalf of aggrieved employees who held the positions
20 identified herein and suffered one or more of the violations alleged. Labor Code §§ 2698,
21 *et seq.*

22 31. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that
23 provides for a civil penalty to be assessed and collected by the Labor and Workforce
24 Development Agency ("LWDA") or any of its departments, divisions, commissions,
25 boards, agencies or employees for violation of the code may, as an alternative, be recovered
26 through a civil action brought by an aggrieved employee on behalf of herself and other
27 current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

28 32. Defendants' conduct violates numerous Labor Code sections including, but

not limited to, the following:

- (a) Violation of Labor Code §§ 201, 202, 203, 204, 210, 510, 511, 558, 1182.12, 1194, 1197 and 1198 for failure to timely pay all earned wages (including minimum wages, regular, and overtime wages) owed to Plaintiff and other aggrieved employees during employment and upon separation of employment as herein alleged;
- (b) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal periods as herein alleged;
- (c) Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;
- (d) Violation of Labor Code §§ 2800 and 2802 for failure to reimburse reasonable and necessary business expenses of Plaintiff and other aggrieved employees as herein alleged; and
- (e) Violation of Labor Code §§ 1174 and 1174.5 for failure to keep accurate payroll records.
- (f) Violation of Labor Code § 226 for failure to provide accurate, itemized wage statements.

33. Plaintiff is an “aggrieved employee” because she was employed by the alleged violator and had one or more of the alleged violations committed against them, and therefore is properly suited to represent the interests of all other aggrieved employees.

34. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

PRAYER FOR RELIEF

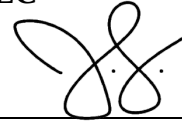
Plaintiff, on her own behalf and on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

- 1 1. For civil penalties under the PAGA;
2 2. For damages pursuant to Labor Code § 558;
3 3. For reasonable attorneys' fees, costs of suit and interest to the extent
4 permitted by law, including pursuant to Code of Civil Procedure § 1021.5 and the Labor
5 Code;

6
7 Dated: November 29, 2022

LEBE LAW, APLC

8
9 By: _____



Jonathan M. Lebe
Yuri Chornobil
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Attorneys for Plaintiff Chanielle Enomoto

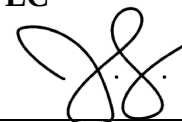
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15 **DEMAND FOR JURY TRIAL**

16 Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

17 Dated: November 29, 2022

LEBE LAW, APLC

18
19 By: _____



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