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OF ORIGINAL FILED
Los Angeles Superior Court

JUL 07 2015

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

BC 5 8 7 2 5 2

STEVEN LEGGINS, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

PACIFIC BELL TELEPHONE COMPANY, a
California Corporation, and DOES 1 to 50
inclusive,

Defendants.

CASE NO.: _____

REPRESENTATIVE ACTION

COMPLAINT FOR CIVIL PENALTIES
PURSUANT TO CAL. LAB. CODE § 2698 et
seq. FOR VIOLATIONS OF CAL. LAB.
CODE §§ 551 AND 552

DEMAND FOR JURY TRIAL

FILED BY FAX

Plaintiff Steven Leggins (hereinafter "Plaintiff" or "Mr. Leggins"), by and through his attorneys of record, brings this action on behalf of himself and all others similarly situated, against Defendant Pacific Bell Telephone Company (hereinafter "Defendant" or "Pacific Bell"), on the following grounds:

INTRODUCTION

1. Pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Cal. Lab. Code § 2698 et seq., Plaintiff brings this action in a representative capacity on behalf of himself and all current and former employees of Pacific Bell, who held an hourly, non-exempt position in the state of California, and who worked seven or more consecutive days.

1 2. Plaintiff seeks civil penalties for the above described acts, which violate Cal. Lab.
2 Code §§ 551 and 552. In addition, Plaintiff seeks all reasonable attorneys' fees and costs, as
3 provided by Cal. Lab. Code § 2699(g).

4 3. All allegations in this Complaint are based upon information and belief except for
5 those allegations that pertain to Plaintiff, which are based upon his own personal knowledge. Each
6 allegation in this Complaint has evidentiary support or is likely to have evidentiary support after a
7 reasonable opportunity for further investigation and discovery.

8 JURISDICTION AND VENUE

9 4. The Court has jurisdiction over this action pursuant to Cal. Civ. Proc. Code §
10 410.10. Pacific Bell is incorporated in the state of California and advertises and sells its products to
11 California residents. The amount in controversy, exclusive of interest, costs, and attorneys' fees,
12 exceeds the minimum jurisdictional amount for this Court.

13 5. Venue is proper in this judicial district pursuant to Cal. Civ. Proc. Code § 395(a).
14 Pacific Bell transacts business in Los Angeles County, and is otherwise within this Court's
15 jurisdiction for purposes of service of process. The unlawful acts alleged herein have a direct effect
16 on Plaintiff and those similarly situated within Los Angeles County and the state of California.

17 THE PARTIES

18 6. At all material times mentioned herein, Plaintiff Steven Leggins resided in, and
19 continues to reside in, Palmdale, California. During the relevant time period, Plaintiff was
20 employed by Pacific Bell in the state of California and held an hourly, non-exempt position. Over
21 the course of his employment, Plaintiff was required to work seven or more consecutive days
22 approximately once every two to three months.

23 7. Defendant Pacific Bell provides residential and commercial telephone service
24 throughout the state of California. Per the Secretary of State web site (www.sos.ca.gov), Pacific
25 Bell was founded in 1906 and maintains its principal place of business in San Francisco, California.

26 8. Plaintiff is informed and believes and thereon alleges, that at all times relevant,
27 Pacific Bell maintained control, oversight, and direction over Plaintiff and all other similarly
28 situated employees, including maintaining timekeeping, payroll, and other employment policies

1 and practices that were uniformly applied to all hourly, non-exempt employees.

2 9. The true names and capacities, whether individual, corporate, subsidiary,
3 partnership, or otherwise of Defendant Does 1 through 50, are unknown to Plaintiff, who therefore
4 sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. Plaintiff
5 further alleges that each fictitiously named Defendant is in some manner responsible for the acts
6 and occurrences set forth herein. Plaintiff will amend his Complaint to show their true names and
7 capacities when the same is ascertained, as well as the manner in which each fictitiously named
8 Defendant is responsible for the harm alleged.

9 10. Plaintiff is informed and believes and thereon alleges, that at all times relevant, each
10 of the acts alleged to have been done by Pacific Bell are also alleged to have been done by the
11 unascertained Defendants mentioned above and by each of their agents and employees who acted
12 within the scope of their agency and/or employment.

13 11. Plaintiff is informed and believes and thereon alleges, that at all times relevant, the
14 acts and omissions of each of the Defendants concurrently contributed to the various acts and
15 omissions of each and every one of the other Defendants in proximately causing the wrongful
16 conduct, harm, and damages alleged herein.

17 12. Plaintiff has complied with the procedural requirements specified in Cal. Lab. Code
18 § 2699.3, thus demonstrating that he is an aggrieved employee with standing to bring a
19 representative action as a private attorney general. Plaintiff now seeks civil penalties on behalf of
20 himself and all current and former employees of Pacific Bell, who held an hourly, non-exempt
21 position in the state of California, and who worked seven or more consecutive days.

22 **FACTUAL ALLEGATIONS**

23 13. Plaintiff is employed by Pacific Bell as Splicing Technician. As a Splicing
24 Technician, Plaintiff is classified as an hourly, non-exempt employee. His responsibilities include
25 installing, troubleshooting, and repairing residential and commercial telephone lines.

26 14. Pacific Bell's work week runs from Sunday to Saturday. However, the company
27 requires each hourly employee to work a rolling weekend schedule. Under the rolling weekend
28 schedule, once every two to three months, an employee is scheduled to be off work on Sunday and

1 Monday, then required to work Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday,
2 Monday, Tuesday, Wednesday, and Thursday.

3 15. Like all other hourly, non-exempt employees, Plaintiff is required to work a rolling
4 weekend schedule. Approximately once every two to three months, Plaintiff is scheduled to work,
5 and actually works, seven or more consecutive days.

6 16. Plaintiff is informed and believes and thereon alleges, that working a rolling
7 weekend schedule, including working seven or more consecutive days, is a requirement for all of
8 Pacific Bell's hourly, non-exempt employees. Moreover, Plaintiff alleges that the nature of Pacific
9 Bell's business does not reasonably require employees to work seven or more consecutive days.

10 **FIRST CAUSE OF ACTION**

11 **CIVIL PENALTIES PURSUANT TO CAL. LAB. CODE § 2698 et seq. FOR VIOLATIONS**
12 **OF CAL. LAB. CODE §§ 551 AND 552**

13 **(By Plaintiff and All Other Aggrieved Employees Against Defendant)**

14 17. Plaintiff realleges and incorporates by this reference, as though fully set forth
15 herein, the proceeding paragraphs of this Complaint.

16 18. Cal. Lab. Code § 551 provides, "Every person employed in any occupation of labor
17 is entitled to one day's rest therefrom in seven." To that end, Cal. Lab. Code § 552 states, "No
18 employer of labor shall cause his employees to work more than six days in seven."

19 19. Pacific Bell violated Cal. Lab. Code §§ 551 and 552 when it caused Plaintiff and
20 other hourly, non-exempt employees to work seven or more consecutive days.

21 20. Under Cal. Lab. Code § 558(a), an employer who violates any provision of the
22 Labor Code that regulates the hours and days of work is subject to a civil penalty as follows:

23 (1) For any initial violation, fifty dollars (\$50) for each underpaid
24 employee for each pay period for which the employee was
25 underpaid in addition to an amount sufficient to recover underpaid
26 wages.

27 (2) For each subsequent violation, one hundred dollars (\$100) for each
28 underpaid employee for each pay period for which the employee
was underpaid in addition to an amount sufficient to recover
underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the
affected employee.

21. Cal. Lab. Code § 2698 et seq., also known as the Private Attorneys General Act of

1 2004 ("PAGA"), expressly provides that any provision of the California Labor Code allowing for a
2 civil penalty to be assessed and collected by the Labor and Workforce Development Agency
3 ("LWDA"), or any of its departments, divisions, commissions, boards agencies or employees, for a
4 violation of the Labor Code, may be recovered through a civil action brought by an aggrieved
5 employee on behalf of himself or herself, and other current or former employees. These penalties
6 are in addition to any other relief available under the Labor Code, and pursuant to § 2699(i), must
7 be allocated 75 percent (75%) to the LWDA and 25 percent (25%) to the aggrieved employees.

8 22. Plaintiff is an aggrieved employee within the meaning of Cal. Lab. Code § 2699(c).
9 More specifically, Plaintiff is a current employee of Pacific Bell, and Pacific Bell committed one or
10 more violations against him.

11 23. As set forth above, Pacific Bell has committed, and continues to commit, violations
12 for which the California Labor Code entitles Plaintiff, as an private attorney general, to recover, on
13 behalf of himself, all aggrieved employees, and the general public, interest, attorneys' fees and
14 costs, as well as all statutory penalties against Pacific Bell, for violations of Cal. Lab. Code §§ 551
15 and 552.

16 24. Cal. Labor Code § 2699(f) provides in pertinent part:

17 For all provisions of this code except those for which a civil penalty
18 is specifically provided, there is established a civil penalty for a
19 violation of these provisions as follows:

20 ...

21 (2) If, at the time of the alleged violation, the person employs one or more
22 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
employee per pay period for the initial violation and two hundred dollars (\$200) for
each aggrieved employee per pay period for each subsequent violation.

23 25. Plaintiff has complied with the procedures specified in Cal. Lab. Code § 2699.3. A
24 letter was sent to the LWDA by certified mail on June 3, 2015, giving notice of Plaintiff's PAGA
25 claims. A copy was simultaneously sent by certified mail to Pacific Bell through its agent for
26 service of process.

27 26. The LWDA had until July 6, 2015 to provide notice of whether it intended to
28 investigate the alleged violations. As of the date of this Complaint, the LWDA has not indicated
whether or not it intends to investigate the alleged violations. Therefore, under Cal. Lab. Code §

1 2699.3, Plaintiff has the right to pursue his claims in a representative capacity on behalf of himself
2 and all other aggrieved current and former employees.


3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, on behalf of himself and all other persons similarly situated, prays
5 for judgment against Defendant as follows:

- 6
- 7 1. For the maximum civil penalty specified in Cal Lab. Code § 558, in the amount of
8 fifty dollars (\$50) for Plaintiff and each aggrieved member per pay period for the
9 initial violation and one hundred dollars (\$100) for Plaintiff and each aggrieved
10 member per pay period for each subsequent violation for the applicable statute of
11 limitations prior to the filing of this Complaint until the date of compliance with the
12 law, or for statutory penalties pursuant to Cal. Lab. Code § 2699, whichever is
13 applicable;
 - 14 2. For all reasonable attorneys' fees and costs; and
 - 15 3. For such other and further relief the Court deems just and proper.

16 Dated: July 6, 2015

CLARK & TREGLIO

17
18 
19 R. Craig Clark
James M. Treglio

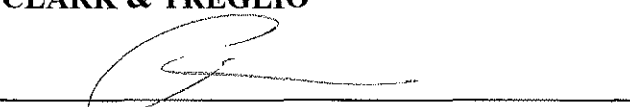
20 Attorneys for Plaintiff

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff demands a jury trial on all issues triable to a jury.

23
24 Dated: July 6, 2015

CLARK & TREGLIO

25
26 
27 R. Craig Clark
James M. Treglio

28 Attorneys for Plaintiff