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12 **Attorneys for Plaintiff**

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **EUREKA DIVISION**

16 JOHN HURLOCKER, individually and on behalf
of all others similarly situated,

17 Plaintiff,

18 vs.

19 APTIM SERVICES, LLC,

20 Defendant.

Case No. 1:21-cv-00403

Plaintiff's Original Complaint for Damages

- 21 1. Failure to pay overtime compensation (Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*)
- 22 2. Failure to pay wages (CAL. LAB. CODE §§ 510, 1194, 1194.5; IWC Wage Orders)
- 23 3. Failure to provide compensation for missed meal and rest periods (CAL. LAB. CODE §§ 226.7, 512; IWC Wage Orders)
- 24 4. Violations of record keeping requirements (CAL. LAB. CODE § 226)
- 25 5. Waiting time penalties (CAL. LAB. CODE § 203)
- 26 6. Violation of Unfair Competition Law (CAL. BUS. & PROF. CODE §§ 17200, *et seq.*)

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7. Civil penalties under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*)

SUMMARY

1. Plaintiff John Hurlocker worked for Defendant APTIM Services, LLC (APTIM) as a Deputy Waste Manager and was charged with monitoring the transportation of hazardous waste from nuclear power plants for APTIM’s customers.

2. The nature of Hurlocker’s working relationship with APTIM is that of an employer-employee, and he is entitled to the benefits of an employee under the FLSA and California law.

3. Hurlocker worked overtime while working for APTIM.

4. APTIM paid Hurlocker the same hourly rate for all hours worked including those in excess of 40 in a workweek.

5. APTIM did not pay Hurlocker a salary.

6. APTIM did not guarantee Hurlocker a salary.

7. Hurlocker and the other hourly employees are similarly situated for the purposes of the FLSA and California law.

8. Hurlocker seeks back wages, liquidated damages, attorney fees, costs, and all other remedies available under the FLSA and California law.

JURISDICTION & VENUE

9. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331, because this action involves a federal question under the FLSA, 29 U.S.C. § 216(b).

10. The Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367.

11. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b) because Hurlocker worked for APTIM in this District and Division.

INTRADISTRICT ASSIGNMENT

12. A substantial part of the events or omissions giving rise to the claim occurred in Humboldt County, California.

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1 13. This matter is therefore properly assigned to the District's Eureka Division. Civ. L. R.
2 3-2(d).

3 **THE PARTIES**

4 14. Hurlocker worked for APTIM as a Waste Manager.

5 15. Hurlocker worked for APTIM from approximately May 2014 until September 2019.

6 16. Throughout his employment with APTIM, Hurlocker was paid the same hourly rate
7 for all hours worked including those in excess of 40 in a workweek.

8 17. Hurlocker's consent is attached as Exhibit A.

9 18. Hurlocker brings this action on behalf of himself and all other similarly situated
10 workers were paid by APTIM's straight time for overtime system, regardless of job title.

11 19. APTIM did not pay these workers overtime for all hours that they worked in excess
12 of 40 hours in a workweek, as required by the FLSA.

13 20. Hurlocker represents at least two classes of similarly situated co-workers.

14 21. First, Hurlocker represents a class of similarly situated hourly employees under the
15 FLSA pursuant to 29 U.S.C. § 216(b). The FLSA Class is defined as:

16 **All APTIM employees who were paid straight time for overtime in the**
17 **past three years.**

18 22. Second, Hurlocker represents a class of similarly situated hourly employees under the
19 California Labor Code pursuant to Federal Rule of Civil Procedure 23. The California Class is defined
20 as:

21 **All APTIM employees working in California who were paid straight**
22 **time for overtime in the past four years.**

23 23. Collectively, the FLSA Class Members and California Class Members are referred to
24 as the "Putative Class Members."

25 24. APTIM is a Louisiana corporation with its headquarters and principal place of
26 business in Louisiana.

27 25. APTIM conducts business in a systematic and continuous manner throughout
28 California, including this District and Division.

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- 1 41. Hurlocker regularly worked over 40 hours.
- 2 42. Hurlocker was paid his regular rate of \$75 for every hour he worked.
- 3 43. Rather than receiving time and half as required by the FLSA, Hurlocker only received
- 4 “straight time” pay for overtime hours worked.
- 5 44. APTIM’s “straight time for overtime” payment scheme violates the FLSA.
- 6 45. APTIM was and is aware of the overtime requirements of the FLSA.
- 7 46. APTIM nonetheless fails to pay certain employees, such as Hurlocker, overtime.
- 8 47. APTIM’s failure to pay overtime to these workers was, and is, a willful violation of the
- 9 FLSA.

10 **CLASS AND COLLECTIVE ACTION ALLEGATIONS**

- 11 48. APTIM’s illegal “straight time for overtime” policy extends well beyond Isaacs.
- 12 49. It is the “straight time for overtime” payment plan that is the “common policy or plan
- 13 that violate[s] the law.” (*McDonald v. Ricardo’s on the Beach, Inc.*, No. CV 11-93366 PSG (MRWx), 2013
- 14 WL 228334, at *2 (C.D. Cal. Jan. 22, 2013) [internal quotations omitted].)
- 15 50. Numerous hourly employees have been victimized by this pattern, practice, and policy,
- 16 which are in willful violation of the FLSA.
- 17 51. Many of these hourly employees have worked with Hurlocker and have reported that
- 18 they were paid in the same manner and were not properly compensated for all hours worked, as
- 19 required by the FLSA.
- 20 52. Thus, from Hurlocker’s observations and discussions with these hourly employees, he
- 21 is aware that the illegal practices or policies of APTIM have been imposed on a distinct group of
- 22 hourly employees.
- 23 53. These employees were all paid straight time for overtime, and were not paid overtime
- 24 compensation.
- 25 54. These hourly employees are victims of APTIM’s unlawful compensation practices and
- 26 are similarly situated to Hurlocker in terms of pay provisions and employment practices.

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1 74. The California Labor Code requires that all employees, including Hurlocker and the
2 California Class, receive 1.5 times their hourly rate as overtime premium compensation for hours
3 worked over eight in one day. CAL. LAB. CODE § 510 (2017); IWC Wage Orders #1-2001 through #17-
4 2001.

5 75. Despite working over 8 hours a day as part of their normal and regular shift, Hurlocker
6 and the California Class did not receive any overtime compensation for all hours worked over eight in
7 one day.

8 76. The California Labor Code also requires that all employees, including Hurlocker and
9 the California Class, receive two times the overtime premium compensation for hours worked over 12
10 in one day. CAL. LAB. CODE § 510 (2017); IWC Wage Orders #1-2001 through #17-2001.

11 77. Although Hurlocker and the California Class occasionally worked over 12 hours in one
12 day, they did not receive the “double time” compensation required by California law.

13 78. The California Labor Code requires that all employees, including Hurlocker and the
14 California Class, receive two times the overtime premium compensation for hours worked over 8 in
15 one day, in the seventh day of a workweek. CAL. LAB. CODE §§ 510, 551–52 (2017); IWC Wage Orders
16 #1-2001 through #17-2001.

17 79. Although Hurlocker and the California Class regularly worked seven days a week, for
18 at least 12 hours a day, they did not receive the “double time” compensation required by California
19 law for all hours over eight worked on the seventh day.

20 80. This pattern, practice, and uniform administration of corporate policy regarding illegal
21 employee compensation is unlawful and entitles Hurlocker and the California Class to recover unpaid
22 balance of the full amount of overtime wages owing, including liquidated damages, interest, attorneys’
23 fees, and costs of suit pursuant to California Labor Code section 1194.

24 **THIRD CAUSE OF ACTION—FAILURE TO PROVIDE**

25 **COMPENSATION FOR MISSED MEAL AND REST PERIODS**

26 81. Hurlocker incorporates by reference all other paragraphs.

27 82. In accordance with the mandates of California Labor Code sections 226.7 and 512,
28 and applicable IWC Wage Orders, Hurlocker and the California Class had the right to take two

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1 uninterrupted 30-minute meal periods for each day they worked 10 hours per day and a 10 minute rest
 2 period for every four hours worked per day. CAL. LAB. CODE §§ 226.7, 512; IWC Wage Orders #1-
 3 2001 through #17-2001.

4 83. Although the California Labor Code requires that all employees, including Hurlocker
 5 and the California Class, receive two, 30-minute meal-period breaks when employed for 10 hours per
 6 day, Hurlocker and the California Class did not receive two meal-period breaks for each day worked,
 7 despite working shifts of 12 hours or more. CAL. LAB. CODE § 512; IWC Wage Orders #1-2001
 8 through #17-2001.

9 84. As a pattern and practice, APTIM did not provide Hurlocker and the California Class
 10 with meal-period breaks, and did not provide proper compensation for this failure as required by
 11 California law.

12 85. Although the California Labor Code requires that all employees, including Plaintiff
 13 and the California Class, receive a 10-minute rest period for every four hours worked, Hurlocker and
 14 the California Class did not receive any rest periods during their shifts of 12 or more hours. CAL. LAB.
 15 CODE § 512; IWC Wage Orders #1-2001 through #17-2001.

16 86. As a pattern and practice, APTIM did not provide Hurlocker and the California Class
 17 with rest-period breaks, and did not provide proper compensation for this failure as required by
 18 California law.

19 87. Hurlocker and the California Class are entitled to receive compensation, at their regular
 20 rate of pay, of one hour for each day they were denied their lawfully required meal- and rest-periods.
 21 CAL. LAB. CODE § 512; IWC Wage Orders #1-2001 through #17-2001.

22 88. APTIM's policy failed to provide Hurlocker and the California Class with the legally
 23 mandated meal period breaks. Such a pattern, practice, and uniform administration of corporate policy
 24 as described herein is unlawful and creates an entitled to recovery by Hurlocker and the California
 25 Class in a civil action, for the balance of the unpaid compensation pursuant to Labor Code sections
 26 226.7 and 512, and applicable IWC Wage Orders.

27 **FOURTH CAUSE OF ACTION—VIOLATIONS OF RECORD KEEPING REQUIREMENTS**

28 89. Hurlocker incorporates by reference all other paragraphs.

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1 90. California Labor Code section 226 requires APTIM to keep accurate records regarding
 2 the rates of pay for their California employees and provide that information to Hurlocker and the
 3 California Class with their wage payment.

4 91. Because APTIM failed to pay Hurlocker and the Putative Class Members lawful wages,
 5 it did not maintain accurate records of Hurlocker and the California Class' daily hours, gross wages
 6 earned, net wages earned, and the applicable hourly rates, and did not provide that information to
 7 Hurlocker and the California Class with their wages.

8 92. This pattern, practice, and uniform administration of corporate policy is unlawful and
 9 entitles Hurlocker and the California Class to recover all damages and penalties available by law,
 10 including interest, penalties, attorney fees, and costs of suit. CAL. LAB. CODE § 226(e).

11 **FIFTH CAUSE OF ACTION—WAITING TIME PENALTIES**

12 93. Hurlocker incorporates by reference all other paragraphs.

13 94. At all relevant times, APTIM was required to pay Hurlocker and the California Class
 14 all wages owed in a timely fashion at the end of employment pursuant to California Labor Code
 15 sections 201 to 204.

16 95. As a result of APTIM's alleged California Labor Code violations, APTIM regularly
 17 failed to pay Hurlocker and the California Class their final wages pursuant to California Labor Code
 18 sections 201 to 204, and accordingly APTIM owes waiting time penalties pursuant to California Labor
 19 Code section 203.

20 96. The conduct of APTIM, in violation of Hurlocker and the California Class' rights,
 21 was willful and was undertaken by the agents, employees, and managers of APTIM.

22 97. APTIM's willful failure to provide Hurlocker and the California Class the wages due
 23 and owing them upon separation from employment results in a continuation of wages up to 30 days
 24 from the time the wages were due.

25 98. Therefore, Hurlocker and the California Class who have separated from employment
 26 are entitled to compensation pursuant to California Labor Code section 203.

27 **SIXTH CAUSE OF ACTION—VIOLATION OF UNFAIR COMPETITION LAW**

28 99. Hurlocker incorporates by reference all other paragraphs.

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1 100. APTIM has engaged, and continues to engage, in unfair and unlawful business
2 practices in California by practicing, employing, and utilizing the employment practices outlined above
3 by knowingly denying employees: (1) overtime wages required under federal law; (2) overtime wages
4 required by California law; (3) meal- and rest-period break wages; (4) accurate wage statements; and
5 (5) waiting time penalties.

6 101. As a result of APTIM's failure to comply with federal and state law, APTIM has also
7 violated the California Unfair Competition Law ("UCL"), CAL. BUS. & PROF. CODE § 17200, *et. seq.*,
8 which prohibits unfair competition by prohibiting any unlawful or unfair business actions or practices.

9 102. The relevant acts by APTIM occurred within the four years preceding the filing of this
10 action.

11 103. On information and belief, APTIM has engaged in unlawful, deceptive, and unfair
12 business practices, pursuant to California's Business and Professions Code section 17200, *et seq.*,
13 including those set forth above, depriving Hurlocker and the California Class of minimum working
14 condition standards and conditions under California law and IWC Wage Orders as set forth above.

15 104. Hurlocker and the California Class are entitled to restitution for at least the following:
16 restitution for unpaid overtime wages and unpaid California Labor Code § 203 continuation wages.

17 105. Hurlocker and the California Class are also entitled to permanent injunctive and
18 declaratory relief prohibiting APTIM from engaging in the violations and other misconduct referred
19 to above.

20 106. APTIM is also liable for fees and costs pursuant to California Code of Civil Procedure
21 section 1021.5 and other applicable law.

22 **SEVENTH CAUSE OF ACTION—CIVIL PENALTIES UNDER PAGA**

23 107. Hurlocker incorporates all other allegations.

24 108. Hurlocker and the California Class are aggrieved employees within the meaning of
25 California Labor Code section 2699.

26 109. As aggrieved employees, Hurlocker and the California Class seek to recover of civil
27 penalties against APTIM pursuant to the Private Attorneys General Act of 2004 (PAGA), Cal. Lab.
28 Code §§ 2698, *et seq.*

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1 110. APTIM has knowingly and intentionally violated the California Labor Code and IWC
2 Wage Orders, including by:

3 a. Failing to pay wages (Cal. Lab. Code §§ 510, 1194, 1194.5; IWC Wage Orders
4 #1-2001 through #17-2001);

5 b. Failing to provide compensation for missed meal and rest periods (Cal. Lab.
6 Code §§ 226.7, 512; IWC Wage Orders #1-2001 through #17-2001);

7 c. Violating record keeping requirements (Cal. Lab. Code § 226);

8 d. Unlawfully collecting, receiving, or withholding wages (Cal. Lab. Code §§ 221,
9 225.5);

10 e. Failing to pay wages promptly following termination of employment, or when
11 due and payable (Cal. Lab. Code § 203).

12 111. The civil penalties sought by Hurlocker and the California Class include the recover
13 of amounts specified in the respective sections of the California Labor Code, and if not specifically
14 provided, those penalties under section 2699(f).

15 112. Hurlocker and the California Class seek the full amounts sufficient to recover unpaid
16 wages, other damages, and necessary expenditures or losses incurred by Hurlocker and the California
17 Class pursuant to California Labor Code sections 210, 225.5, 226.3, 226.8, 558(a), 1197(a), 2802, and
18 2699.

19 113. Hurlocker and the California Class will allege any additional violations of the
20 California Labor Code and IWC Wage Orders as may be disclosed in discovery and as a result of
21 additional investigation that may be pursued in this action.

22 114. Hurlocker provided notice to APTIM of its California Labor Code and IWC Wage
23 Orders violations on January 8, 2021.

24 115. On the same date, Hurlocker submitted notice to the California Labor and Workplace
25 Development Agency (LWDA) as required by PAGA.

26 116. Hurlocker's notice to APTIM and the LWDA advises each of them of his intent to
27 prosecute a private enforcement action to assess and recover civil penalties under PAGA if the LWDA
28

1 declines to investigate or prosecute the asserted California Labor Code and IWC Wage Orders
2 violations.

3 117. If the LWDA declines to investigate or prosecute, Hurlocker and the California Class
4 will pursue their PAGA claims in the course of this action.

5 118. Hurlocker and the California Class had to retain counsel to file this action to protect
6 their interests and to assess and collect the civil penalties owed by APTIM.

7 119. Hurlocker and the California Class have incurred attorneys' fees and costs in
8 prosecuting this action to recover under PAGA

9 **RELIEF SOUGHT**

10 120. Hurlocker prays for judgment against APTIM as follows:

- 11 a. For an order certifying a class action under Rule 23 for the purposes of the
12 claims under California law;
- 13 b. For an order certifying this case as a collective action for the purposes of the
14 FLSA claims;
- 15 c. For an order finding APTIM liable for violations of state and federal wage
16 laws with respect to Hurlocker and all Class Members covered by this case;
- 17 d. For a judgment awarding all unpaid wages, liquidated damages, and penalty
18 damages, to Hurlocker and all Class Members covered by this case;
- 19 e. For a judgment awarding Hurlocker and all Class Members covered by this
20 case their costs of this action;
- 21 f. For a judgment awarding Hurlocker and all Class Members covered by this
22 case their attorneys' fees;
- 23 g. For a judgment awarding Hurlocker and all Class Members covered by this
24 case pre- and post-judgment interest at the highest rates allowed by law; and
- 25 h. For all such other and further relief as may be necessary and appropriate.
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1 Date: January 15, 2021

2 Respectfully submitted,

3 **PARMET PC**

4 */s/ Matthew S. Parmet*

5 By: _____
6 **Matthew S. Parmet**

7 **Attorneys for Plaintiff**

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EXHIBIT A

FAIR LABOR STANDARDS ACT EMPLOYMENT SERVICES CONSENT

Print Name: John Hurlocker

1. I hereby consent to make a claim against APTIM
to pursue my claims of unpaid overtime during the time that I worked with the company.
2. I designate the law firm and attorneys at JOSEPHSON DUNLAP, LLP and BRUCKNER BURCH PLLC as my attorneys to prosecute and make decisions concerning my wage claims, the manner and method of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.
3. I authorize the law firm and attorneys at JOSEPHSON DUNLAP, LLP and BRUCKNER BURCH PLLC to use this consent to file my claim in a separate lawsuit, class/collective action, or arbitration against APTIM.
4. I understand that, by filing this Consent Form, I will be bound by the Judgment of the Court or arbitrator on all issues in this case.

Signature: *John Hurlocker*
John Hurlocker (Dec 4, 2020 12:51 PST)

Date Signed: Dec 4, 2020

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOHN HURLOCKER, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Humboldt, CA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew S. Parmet, PARMET PC., 340 S. Lemon Ave., #1228 Walnut, CA 91789, (713) 999-5228

DEFENDANTS

APTIM SERVICES, LLC

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 201, et seq.

Brief description of cause: recovery of unpaid wages and related damages

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 01/15/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Matthew S. Parmet

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims APTIM Services Owes Workers Unpaid Overtime](#)
