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Superior Court of California,
County of Alameda

07/14/2022 at 09:09:32 AM

By: Xian-xii Bowie,
Deputy Clerk

Attorneys for Plaintiff Michelle Martinho

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

MICHELLE MARTINHO, as an individual and
on behalf of others similarly situated,

Plaintiff,

v.

AMAZON.COM INC., a Delaware corporation;
AMAZON.COM SERVICES, LLC, a Delaware
limited liability corporation; AMAZON WEB
SERVICES, INC., a Delaware corporation, and
DOES 1 through 100, inclusive,

Defendants.

CASE NO. 22CV014328

**CLASS ACTION COMPLAINT FOR
DAMAGES FOR:**

- (1) FAILURE TO PAY REGULAR AND
MINIMUM WAGES, LABOR CODE §
1194; AND**
- (2) UNFAIR BUSINESS PRACTICES
(Violation of California Business &
Professions Code § 17200 *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff Michelle Martinho ("Plaintiff") hereby submits this Complaint against Amazon.com
2 Inc., Amazon.com Services LLC, Amazon Web Services, Inc., and DOES 1-100 (hereinafter
3 collectively referred to as "Defendants" or "Amazon") on behalf of herself and the class of
4 Defendants' similarly situated current and former employees who worked at Amazon warehouses,
5 distribution centers, and fulfillment centers in California, as follows:

6 **INTRODUCTION**

7 1. This class action is within the Court's jurisdiction under California Labor Code § 1194,
8 the California Business and Professions Code § 17200, *et seq.*, (Unfair Practices Act), and the
9 applicable wage order(s) issued by the Industrial Welfare Commission ("IWC").

10 2. This complaint challenges systemic illegal employment practices resulting in violations
11 of the California Labor Code, Business and Professions Code, and applicable IWC wage orders.

12 3. Plaintiff is informed and believes and based thereon alleges that Defendants, jointly and
13 severally have acted intentionally and with deliberate indifference and conscious disregard to the
14 rights of all employees by failing to pay all regular and minimum wages for all hours worked during
15 the hiring process, during the onboarding process, and after the time of hire but prior to the start of
16 their first scheduled shift.

17 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
18 engaged in, among other things, a system of willful violations of the California Labor Code, Business
19 and Professions Code, and applicable IWC wage orders by creating and maintaining policies,
20 practices and customs that knowingly deny employees their wages for all hours worked during the
21 hiring process, during the employee onboarding process, and after the time of hire but prior to the day
22 of and the start of their first scheduled shift.

23 5. The policies, practices and customs of Defendants described above and below have
24 resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that
25 routinely adhere to the strictures of the California Labor Code, Business and Professions Code, and
26 applicable IWC wage orders.

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1 including in and/or around Alameda County and employs several thousand employees such as Plaintiff
2 at any given time in the State of California.

3 14. Plaintiff is informed and believes and based thereon alleges that at all times herein
4 mentioned Defendants and DOES 1 through 100, are and were corporations, business entities,
5 individuals, and partnerships, licensed to do business and actually doing business in the State of
6 California.

7 15. Plaintiff does not know the true names or capacities, whether individual, partner or
8 corporate, of the Defendants sued herein as DOES 1 through 100, inclusive, and for that reason, said
9 Defendants are sued under such fictitious names, and Plaintiff prays leave to amend this complaint
10 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
11 alleges that each of said fictitious Defendants was responsible in some way for the matters alleged
12 herein and proximately caused Plaintiff and members of the general public and class to be subject to
13 the illegal employment practices, wrongs and injuries complained of herein.

14 16. At all times herein mentioned, each of said Defendants participated in the doing of the
15 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
16 and each of them, were the agents, servants and employees of each of the other Defendants, as well as
17 the agents of all Defendants, and were acting within the course and scope of said agency and
18 employment.

19 17. Plaintiff is informed and believes and based thereon alleges that at all times herein
20 mentioned, each of the named Defendants was the joint employer, agent, employer, alter ego and/or
21 joint venturer of, or working in concert with each of the other Co-Defendants and was acting within
22 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
23 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
24 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

25 18. At all times herein mentioned, Defendants, and each of them, were members of, and
26 engaged in, a joint venture, partnership and common enterprise, and were acting within the course and
27 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

1 guaranteed them by California Labor Code § 1194, California Business and Professions Code §17200,
2 *et seq.*, and the applicable wage order(s) issued by the IWC.

3 **CLASS ACTION ALLEGATIONS**

4 20. Class Definition: The named individual Plaintiff brings this action on behalf of herself
5 and a Class of all current and former employees of Defendants who worked at Amazon warehouses,
6 distribution centers, and fulfillment centers in California who, after being told they were hired, had to
7 come to an Amazon facility or location in California to perform work that they were not paid for
8 during the period from July 12, 2018 to the present, including the following Subclasses:

9 (a) all current and former employees of Defendants who worked at Amazon warehouses,
10 distribution centers, and fulfillment centers in California who after being told they were hired were
11 required to come to an Amazon facility or location in California and had to complete forms concerning
12 eligibility to work legally prior to the start of their first shift and were not paid for this time;

13 (b) all current and former employees of Defendants who worked at Amazon warehouses,
14 distribution centers, and fulfillment centers in California who after being told they were hired were
15 required to come to an Amazon facility or location in California and had to bring documents regarding
16 eligibility to work legally prior to the start of their first shift and were not paid for this time; and

17 (c) all current and former employees of Defendants who worked at Amazon warehouses,
18 distribution centers, and fulfillment centers in California who after being told they were hired were
19 required to come to an Amazon facility or location in California to have an identification card photo
20 taken prior to the start of their first shift and were not paid for this during the period from July 12,
21 2018 to the present.

22 Plaintiff specifically limits the class to these specific work actions of unpaid time and
23 specifically excludes any and all unpaid or paid time on the day of the start of their first scheduled
24 shift and anytime thereafter.

25 21. Numerosity: The members of the Class and each Subclass exceeds 100 persons and are
26 so numerous that joinder of all members would be impractical, if not impossible. The identity of the
27 members of the class is readily ascertainable by review of Defendants' records, including payroll

1 records. Plaintiff is informed and believes and based thereon alleges that class members were not paid
2 for all hours worked during the hiring process, during the onboarding process, and after the time of
3 hire but prior to the start of their first assigned shift.

4 22. Adequacy of Representation: The named Plaintiff is fully prepared to take all necessary
5 steps to represent fairly and adequately the interests of the class defined above. Plaintiff's attorneys are
6 ready, willing and able to fully and adequately represent the class and individual Plaintiffs. Plaintiff's
7 attorneys have certified, prosecuted and settled wage-and-hour class actions in the past and currently
8 have a number of wage-and-hour class actions pending in California courts.

9 23. Common Questions of Law and Fact: There are predominant common questions of law
10 and fact and a community of interest amongst Plaintiff and the claims of the Class concerning
11 Defendants: (a) whether Defendants are required to pay employees for certain work performed during
12 the hiring process, whether Defendants are required to pay for all work performed during the on-
13 boarding process, whether Defendants are required to pay for time worked engaged in coming to
14 Amazon facility to take a picture for an ID badge card, time that was worked prior to the day and the
15 start of their first assigned shift, (b) whether Defendants failed to pay employees for all hours worked
16 prior to the start of their first assigned shift, and (c) engaging in unfair business practices.

17 24. Typicality: The claims of Plaintiff are typical of the claims of all members of the class.
18 Plaintiff is a member of the class and has suffered the alleged violations of California Labor Code §
19 1194, the California Business and Professions Code § 17200, *et seq.*, and the applicable wage order(s)
20 issued by the IWC.

21 25. The California Labor Code and Wage Order provisions upon which Plaintiff bases her
22 claims are broadly remedial in nature. These laws and labor standards serve an important public
23 interest in establishing minimum working conditions and standards in California. These laws and labor
24 standards protect the average working employee from exploitation by employers who may seek to take
25 advantage of superior economic and bargaining power in setting onerous terms and conditions of
26 employment.

1 26. The nature of this action and the format of laws available to Plaintiff and members of
2 the class identified herein make the class action format a particularly efficient and appropriate
3 procedure to redress the wrongs alleged herein. If each employee were required to file an individual
4 lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since they
5 would be able to exploit and overwhelm the limited resources of each individual plaintiff with their
6 vastly superior financial and legal resources. Requiring each class member to pursue an individual
7 remedy would also discourage the assertion of lawful claims by employees who would be disinclined
8 to file an action against their former and/or current employer for real and justifiable fear of retaliation
9 and permanent damage to their careers and subsequent employment.

10 27. The prosecution of separate actions by the individual class members, even if possible,
11 would create a substantial risk of: (a) inconsistent or varying adjudications with respect to individual
12 class members against the Defendants and which would establish potentially incompatible standards of
13 conduct for the Defendants; and/or (b) adjudications with respect to individual class members which
14 would, as a practical matter, be dispositive of the interest of the other class members not parties to the
15 adjudications or which would substantially impair or impede the ability of the class members to
16 protect their interests. Further, the claims of the individual members of the class are not sufficiently
17 large to warrant vigorous individual prosecution considering all of the concomitant costs and
18 expenses.

19 28. Proof of a common business practice or factual pattern, which the named Plaintiff
20 experienced and are representative of, will establish the right of each of the members of the Class to
21 recovery on the causes of action alleged herein.

22 29. The Class is commonly entitled to a specific fund with respect to the compensation
23 illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those
24 funds being improperly withheld by Defendants. This action is brought for the benefit of the entire
25 class and will result in the creation of a common fund.

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FIRST CAUSE OF ACTION

**For Failure to Pay All Regular and Minimum Wages in Violation of Labor Code § 1194
(Against All Defendants by Plaintiff and the Class)**

30. Plaintiff hereby incorporates by reference all preceding paragraphs as alleged above as if fully set forth herein.

31. Plaintiff alleges that she and similarly situated employees were not paid for certain specific time worked as required under California law prior to the start of their first scheduled paid shift. After submitting employment applications and completing a qualifying test online, Plaintiff and other similarly situated employees were told by Defendants by email or other electronic methods that they were hired by Amazon. After being hired as employees, Plaintiff and similarly situated employees were required to come to an Amazon facility in California to complete forms concerning eligibility to work legally, bring documents regarding eligibility to work legally, have an identification card photo taken, and take a drug test—this time was not paid for by Amazon either at minimum wages or at the agreed on hiring rate of pay. Plaintiff and similarly situated employees were not paid anything for this time spent under the employer’s control in these specific post-hire activities on-site at an Amazon facility, lasting approximately 1-2 hours, which occurred prior to their first scheduled shifts. Plaintiff seeks this period of time that is very narrow and is not covered by any other current class action or group action against Defendants.

32. Under California law, “hours worked” is defined as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

33. Here, Plaintiff and similarly situated employees performed work under the direction and control of Defendants that was not accurately recorded or maintained by Defendants’ timekeeping systems, and/or was recorded but purposefully excluded by Defendants when calculating wages owed. Defendants thereafter failed to issue payments (including minimum and regular wages) for such work.

34. After submitting employment applications online and completing a qualifying test online, Plaintiff and other similarly situated employees were told by Defendants by email or other

1 electronic methods that they were hired. After being hired as employees, Plaintiff and similarly
2 situated employees were required to come to an Amazon facility in California to complete forms
3 concerning eligibility to work legally, bring documents regarding eligibility to work legally, have an
4 identification card photo taken, and take a drug test. Plaintiff and similarly situated employees were
5 not paid for this time spent under the employer's control in these post-hire activities on-site at an
6 Amazon facility, lasting approximately 1-2 hours, which occurred prior to the day of their first
7 scheduled shifts.

8 35. Defendants were at all times aware that such work was being performed, and such work
9 was carried out under the direction and supervision of Defendants.

10 36. Defendants were required to compensate Plaintiff with at least the minimum wage for
11 all hours worked.

12 37. As a matter of uniform corporate policy, procedure, and practice, Defendants violated
13 Labor Code §1194 by willfully failing to pay Plaintiff and similarly situated employees for time spent
14 subject to Defendants' control after their hire and prior to the start of their first scheduled shift.

15 38. Such a pattern, practice, and uniform administration of corporate policy regarding
16 illegal employee compensation as described herein is unlawful and creates an entitlement to recovery
17 by Plaintiff and the class in a civil action for damages and wages owed and for costs and attorneys'
18 fees.

19 **SECOND CAUSE OF ACTION**

20 **For Violations of Business and Professions Code § 17200, et seq.**

21 **(Against All Defendants by Plaintiff and the Class)**

22 39. Plaintiff hereby incorporates by reference all preceding paragraphs as alleged above as
23 if fully set forth herein.

24 40. Defendants, and each of them, have engaged and continue to engage in unfair business
25 practices in California by practicing, employing and utilizing the employment practices outlined
26 above, inclusive, to wit, by their failure to pay all regular and minimum wages owed for hours worked
27 after the time of hire and prior to the first day of work and first assigned shift.

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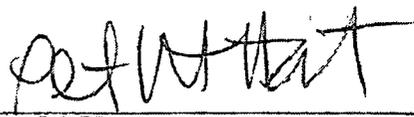
- and take a drug test, and only this time which occurred prior to the day of the start of the first assigned shift pursuant to Labor Code § 1194 and for costs and attorneys' fees;
- 5. Upon the Second Cause of Action, for restitution to Plaintiff and other similarly affected members of the general public of all funds unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be violative of the mandate established by California Business and Professions Code section 17200, et seq.;
- 6. For reasonable attorneys' fees, expenses and costs as provided by California Labor Code § 218.5 and Code of Civil Procedure § 1021.5;
- 7. For all pre- and post-judgment interest; and
- 8. For such other and further relief the court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, for herself and the Class, hereby demands a jury trial as provided by California law.

DATED: July 14, 2022

LAW OFFICES OF PETER M. HART

By: 
 Peter M. Hart
 Ashlie E. Fox
 Attorneys for Plaintiff Michelle Martinho

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Amazon Failed to Pay California Workers for Onboarding, Class Action Claims](#)
