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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
UNLIMITED JURISDICTION

16CV290847

16 TYMUOI HA, On Behalf of Herself and All
17 Others Similarly Situated,
18 Plaintiff,
19 v.
20 GOOGLE INC. and URPAN
21 TECHNOLOGIES, INC.
22 Defendants.

Case No.

CLASS ACTION

COMPLAINT FOR DAMAGES

1. FAILURE TO PAY OVERTIME WAGES
2. FAILURE TO PAY EARNED WAGES UPON SEPARATION
3. FAILURE TO FURNISH ACCURATE WAGE STATEMENTS
4. UNLAWFUL AND UNFAIR BUSINESS PRACTICES
5. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
6. RETALIATION FOR PROTECTED ACTIVITY

BY FAX

1 Plaintiff TYMUOI HA (“Plaintiff” or “Ms. Ha”), individually and on behalf of all others
2 similarly situated, brings this Class Action Complaint against Defendants GOOGLE INC.
3 (“Google”) and URPAN TECHNOLOGIES, INC. (“UrpanTech”) (collectively, “Defendants”).

4 Plaintiff alleges as follows:

5 **I. INTRODUCTION**

6 1. This action is brought by Tymuoi Ha on behalf of herself and all others similarly
7 situated to obtain damages and restitution from Defendants for wage and hour violations. This
8 action is also brought individually by Tymuoi Ha for wrongful termination and retaliation.

9 2. This action seeks to remedy Defendants’ illegal practices, whereby Defendants
10 deliberately and uniformly cheated Plaintiff and similarly situated workers out of hard-earned
11 wages for their long hours of work and retaliated against those who protested unfair treatment.

12 **II. JURISDICTION AND VENUE**

13 3. This case is properly before this Court because the matter involves issues of state
14 law and all Defendants, presently and at all times relevant to this action, have conducted
15 substantial and continuous commercial activities in Santa Clara County.

16 4. Defendants Google and UrpanTech’s headquarters are both located in Santa Clara
17 County. At all times herein mentioned Defendants Google and UrpanTech did substantial
18 business in the State of California and within the County of Santa Clara, making the County an
19 appropriate venue, pursuant to Code of Civil Procedure §§ 393, 395, and 395.5.

20 **III. THE PARTIES**

21 5. Plaintiff **Tymuoi Ha** is a California resident. Ms. Ha worked as a full-time, non-
22 exempt hourly employee for Defendants from approximately July 15, 2013 until on or about
23 January 27, 2014. Her job title was Sourcer III.

24 6. Defendant **Google** is a Delaware Corporation whose headquarters and principal
25 place of business is 1600 Amphitheatre Parkway, Mountain View, California 94043.

26 7. Defendant **UrpanTech** is a California staffing corporation that supplies
27 technology companies with temporary and contract workers. UrpanTech’s headquarters and
28 principal place of business is 341 Cobalt Way # 208, Sunnyvale, California 94085.

1 8. Plaintiff worked at Google's headquarters in Mountain View, California. At all
2 times mentioned in this complaint Plaintiff was under the supervision and control of both Google
3 and UrpanTech.

4 **IV. CLASS ACTION ALLEGATIONS**

5 9. The Class that Plaintiff seeks to represent is composed of:

6 All persons who worked for Defendants in California as temporary or
7 contract sourcers, closers, and recruiters, and any other worker who
8 performed substantially the same work as workers with those titles or in
9 those roles in Google's People Operations department (including, without
10 limitation, temporary workers assigned to the Channel organizations) at
11 any time since January 27, 2012.

12 10. Plaintiff is a member of the Class. Plaintiff collectively refers to Class members
13 as "Contract Recruiters."

14 11. Plaintiff is informed and believes and thereupon alleges that more than two-thirds
15 of the proposed Class are citizens of California.

16 12. In violation of California wage and hour laws, Defendants' wrongful acts against
17 Plaintiff and the Class include:

- 18 a. failure to pay wages for all hours worked;
- 19 b. failure to pay all overtime compensation due;
- 20 c. failure to timely pay wages upon separation from employment; and
- 21 d. failure to record, maintain, and timely furnish employees with wage statements
22 and payroll records accurately showing their total hours worked.

23 13. Upon information and belief, the above violations are the result of centralized
24 policies and practices created by Defendant Google's human resources and payroll departments,
25 and implemented with the assistance of staffing agencies, including UrpanTech.

26 14. This action may be properly maintained as a class action pursuant to Code of Civil
27 Procedure § 382 because there is a well-defined community of interest in the litigation and the
28 proposed Class is easily ascertainable.

 a. **Numerosity:** The potential members of the Class as proposed are so
numerous that joinder of all of its members is impracticable. The size of the Class is believed to

1 exceed 100 individuals. The precise Class list is ascertainable through UrpanTech's and Google's
2 payroll, employment, and other records.

3 **b. Commonality:** Common questions of law and fact predominate over any
4 questions affecting only individual Class members. These common questions include, but are not
5 limited to: (i) whether Defendants jointly employed Class members; (ii) whether Defendant
6 Google's uniform right of control requires that Class members be considered Google's
7 employees; (iii) whether Defendants had policies and practices forbidding or discouraging the
8 reporting and claiming of overtime; (iv) whether Defendants violated the Labor Code and
9 applicable Wage Orders by failing to pay overtime compensation earned and due; (v) whether
10 Defendants violated Labor Code § 1174 by failing to keep accurate records of Class members'
11 daily and weekly work time; (vi) whether Defendants' failure to provide formerly employed
12 Class members with all wages due upon separation violates Labor Code §§ 201, 202 and 203;
13 (vii) whether Defendants' failure to provide accurate wage statements violated Labor Code §
14 226; (viii) whether Defendants knowingly and willfully violated wage and hour laws; and (ix)
15 whether Defendants violated Business and Professions Code § 17200 by virtue of its violations of
16 the Labor Code.

17 **c. Typicality:** Plaintiff has suffered the same violations and similar injuries
18 as other Class members arising out of and caused by Defendants' common course of conduct in
19 violation of law as alleged herein;

20 **d. Adequacy of representation:** Plaintiff is a member of the Class and will
21 fairly and adequately represent and protect the interests of all Class members. Plaintiff is
22 represented by counsel who are competent and experienced in litigating wage and hour and other
23 employment class actions.

24 **e. Superiority of a class action:** A class action is superior to other available
25 means for the fair and efficient adjudication of this controversy. Class action treatment will
26 permit a large number of similarly situated persons to prosecute their common claims in a single
27 forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense
28 that numerous individual actions engender. Because the losses, injuries, and damages suffered by

1 each of the individual Class members are relatively small, the expenses and burden of individual
2 litigation would make it extremely difficult, if not impossible, for the individual Class members
3 to redress the wrongs done to them. Additionally, important public interests will be served by
4 addressing the matter as a class action. The adjudication of individual litigation claims would
5 result in a great expenditure of Court and public resources. Treating the claims as a class action
6 will result in a significant saving of these costs. The prosecution of separate actions by individual
7 members of the Class would create a risk of inconsistent and/or varying adjudications with
8 respect to the individual members of the Class, establishing incompatible standards of conduct
9 for Defendants and resulting in the impairment of Class members' rights and the disposition of
10 their interests through actions to which they were not parties. The issues in this class action can
11 be decided by means of common, class-wide proof. In addition, the Court can, and is empowered
12 to, fashion methods to efficiently manage this action as a class action.

13 **V. FACTUAL ALLEGATIONS**

14 15. At all relevant times, Google worked with staffing agencies, including UrpanTech,
15 to engage and employ Contract Recruiters to work for Google. Contract Recruiters worked as
16 part of Google's "world-class recruiting team" to find and develop relationships with candidates,
17 guide candidates through the hiring process, drive the interview and offer process, close the deal
18 with candidates, and overall fulfill the staffing needs of Google.

19 16. At all relevant times, UrpanTech was an employer of Plaintiff and other Class
20 members who UrpanTech recruited to work for Google as Contract Recruiters.

21 17. UrpanTech is a staffing agency funneling Contract Recruiters, such as Plaintiff
22 and other Class members, to Google and other clients. UrpanTech suffered and permitted
23 Plaintiff and other Class members to perform work for the benefit of UrpanTech.

24 18. UrpanTech recruited Plaintiff and other Class members and conducted screening
25 of candidates for Google. UrpanTech's payroll department processed payroll for Plaintiff and
26 other Class members who worked for Google.

27 19. At all relevant times, Google was also an employer of Plaintiff and all other Class
28 members who were recruited by UrpanTech to work for Google as Contract Recruiters. Google

1 suffered and permitted Plaintiff and other Class members to perform work for the benefit of
2 Google. Google also exercised control over the wages, hours, and/or working conditions of the
3 Class members, including Plaintiff.

4 20. UrpanTech did not hire any individuals to work as Contract Recruiters at Google
5 unless Google agreed to hire the particular individual. Google directly interviewed candidates,
6 including Plaintiff, as if they were directly recruiting them.

7 21. Plaintiff and Class members worked alongside permanent Google employees who
8 did the same work. Plaintiff and Class members were directly supervised by Google managers
9 within the regular Google hierarchy and had to follow Google's policies. All of the terms and
10 conditions of day to day work were set by Google. Google provided the office space, computers,
11 and other equipment for Class members to do their jobs for Google. Critically, Google
12 established, controlled, and communicated to Plaintiff and the other Class members the policies
13 regarding hours and wages that are at issue in this action. For example, overtime payments are
14 determined by Google policy even though paychecks are paid through UrpanTech.

15 22. Through UrpanTech, Plaintiff received a one-year contract assignment to work for
16 Google as a Contract Recruiter and report to a Google manager. The contract assignment was at-
17 will and Plaintiff was subject to termination by UrpanTech or Google. At the same time,
18 UrpanTech informed Plaintiff of the opportunity for extensions of her assignment at Google or
19 conversion to Google's payroll and permanent employment. Plaintiff is informed and believes
20 and thereupon alleges all Class members work for Google on substantially similar terms and start
21 with one-year assignments.

22 23. Plaintiff is informed and believes and thereupon alleges that UrpanTech acted as
23 Google's agent in setting the terms and conditions of employment. Plaintiff is informed and
24 believes and thereupon alleges that her compensation terms and conditions were set by Google,
25 and that all funds for her compensation came from Google through UrpanTech.

26 24. Plaintiff is informed and believes and thereupon alleges that Google sourced
27 Contract Recruiters to work in People Operations from numerous staffing agencies, such as
28 UrpanTech, and that Google applied the same policies and practices alleged herein to all Class

1 members, regardless of the staffing agency involved in the employment relationship. Google is
2 an employer of all Contract Recruiters, regardless of which staffing agency recruited them to
3 work for Google.

4 25. Plaintiff is informed and believes and thereupon alleges that Defendants have
5 uniformly subjected all Class members to the following unlawful labor practices:

6 **Failure to pay earned overtime compensation**

7 26. During all relevant times, Contract Recruiters have been non-exempt under the
8 overtime laws and paid on an hourly basis.

9 27. Defendants' policy and practice is to cap the amount of overtime it pays to
10 individual Contract Recruiters regardless of the amount of overtime hours actually worked.

11 28. Defendants set specific numeric limits on the amount of overtime hours that
12 Contract Recruiters were allowed to report. At the same time Defendants suffered and permitted
13 Plaintiff and the other Class members to work additional, unpaid overtime hours in order to
14 succeed in their jobs and meet performance metrics.

15 29. Defendants instructed Plaintiff and the other Class members to not report more
16 than the capped amount of overtime.

17 30. Defendants knew or had reason to know that Plaintiff and the other Class
18 members worked more hours than Defendants compensated.

19 31. Plaintiff and the other Class members were subject to the control of the
20 Defendants while they performed their work as Contract Recruiters.

21 32. Plaintiff and the other Class members regularly worked more than eight hours per
22 weekday; indeed, it was common for Contract Recruiters to work twelve hours in a workday.

23 33. In addition to working Monday through Friday, Plaintiff and the other Class
24 members frequently worked on weekends.

25 34. Plaintiff and the other Class members regularly worked more than forty hours per
26 week.

27 35. Plaintiff and the other Class members regularly were not compensated for all
28 overtime hours worked.

1 **Failure to keep accurate time records and to furnish accurate wage statements and payroll**
2 **records to Class members**

3 36. As a result of Defendants' policy and practice, Defendants failed to keep accurate
4 records of when Plaintiff and the other Class members began and ended each work period, and
5 failed to keep accurate records of total hours worked daily and weekly. Defendants' failure to
6 accurately record Class members' hours of compensable work was willful.

7 37. As a result of Defendants' policy and practice, Defendants failed to furnish
8 itemized wage statements to Plaintiff and the other Class members that accurately stated the
9 hours worked. Defendants' failure to provide accurate itemized wage statements was willful.

10 **Failure to pay all wages due to Class members at the end of the employment relationship**

11 38. Defendants willfully failed to immediately pay Plaintiff and the other Class
12 members all earned wages upon their separation from their positions at Google, including
13 overtime wages.

14 **Google and UrpanTech's retaliation against Plaintiff**

15 39. In January 2014, Plaintiff complained to Ankur Gupta, her immediate supervisor
16 and a permanent manager at Google, about Defendants' failure to pay Contract Recruiters for
17 overtime worked. Ms. Ha specifically complained that it was wrong that Defendants did not pay
18 her and the other Contract Recruiters for overtime hours worked when they knew that the
19 Contract Recruiters were working these hours and encouraged them to work the hours. Gupta
20 responded that there was nothing he could do.

21 40. Later, Plaintiff received a call from Benjamin Blundell, a permanent manager at
22 Google who was Gupta's boss. Blundell told Plaintiff that her complaint to Gupta was
23 inappropriate and that she needed to apologize to Gupta.

24 41. Afraid of losing her job, Plaintiff obeyed Blundell's instruction and apologized to
25 Gupta, saying to Gupta that she understood that there was nothing Gupta could do.

26 42. Approximately one week later, Defendants UrpanTech and Google fired Plaintiff.
27 Plaintiff's last day of employment was January 27, 2014 or shortly thereafter.

28 43. The reason for Plaintiff's termination was her good faith complaint about

1 Defendants failing to pay her and other Contract Recruiters for all overtime hours worked.

2 **Defendants admitted that Plaintiff and other Contract Recruiters were not paid for all**
3 **overtime worked**

4 44. After she was terminated, Defendants communicated with Plaintiff regarding her
5 overtime hours worked but not paid, and subsequently permitted Plaintiff to submit a report of
6 the overtime hours that Defendants' managers did not allow her to claim in the past.

7 45. Defendants acknowledged that they had failed to compensate Plaintiff for her
8 overtime worked. However, even after this admission, Defendants refused to pay her for all
9 overtime owed.

10 46. Based upon information and belief, Defendants have also acknowledged that they
11 failed to pay other Contract Recruiters for overtime hours worked, but failed to pay them for all
12 overtime owed.

13 **FIRST CAUSE OF ACTION**
14 **FAILURE TO PAY OVERTIME WAGES**
15 **(California Labor Code §§ 510, 1194 and the IWC Wage Orders; Brought by Plaintiff on**
16 **Behalf of Herself and the Class Against Both Defendants)**

17 47. Plaintiff, on behalf of herself and the Class, repeats and re-alleges each and every
18 allegation contained in the foregoing paragraphs as if fully set forth herein.

19 48. During all relevant times, Defendants engaged in a widespread pattern and
20 practice of failing to pay Plaintiff and Class members for hours worked in excess of eight hours
21 per workday and forty hours per workweek.

22 49. During all relevant times, Defendants were employers of Plaintiff and Class
23 members under the IWC Wage Orders and the Labor Code, including section 1194.

24 50. During all relevant times, Defendants required, and continues to require, Contract
25 Recruiters to work in excess of eight hours per workday and forty hours per workweek.

26 51. During all relevant times, the California Labor Code § 510 and the applicable
27 Wage Orders required that an employer compensate all work performed by an employee in
28 excess of eight hours in one workday or in excess of forty hours in any one workweek, and all
work performed by an employee during the first eight hours worked on the seventh day of work

1 in any one workweek, at one and one-half times the employee's regular rate of pay.

2 52. During all relevant times, the California Labor Code § 510 and the applicable
3 Wage Orders required that an employer compensate all work performed by an employee in
4 excess of twelve hours in one workday, and all work in excess of eight hours on any seventh day
5 of a workweek, at twice the employee's regular rate of pay.

6 53. Defendants knowingly and willfully failed to pay overtime wages earned and due
7 to Plaintiff and Class members who worked eight or more hours in a workday.

8 54. Defendants knowingly and willfully failed to pay overtime wages earned and due
9 to Plaintiff and Class members who worked forty or more hours in a workweek.

10 55. Defendants' conduct has deprived Plaintiff and Class members of full and timely
11 payment for all overtime hours worked in violation of the California Labor Code.

12 56. As a result of Defendants' willful and unlawful failure to pay the Class properly
13 earned overtime wages, Plaintiff and the other Class members are entitled to recover their unpaid
14 overtime compensation and the relief requested below.

15 **SECOND CAUSE OF ACTION**
16 **FAILURE TO PAY EARNED WAGES UPON SEPARATION**
17 **(California Labor Code §§ 201, 202, 203; Brought by Plaintiff on**
18 **Behalf of Herself and the Class Against Both Defendants)**

19 57. Plaintiff, on behalf of herself and the Class, repeats and re-alleges each and every
20 allegation contained in the foregoing paragraphs as if fully set forth herein.

21 58. California Labor Code §§ 201 and 202 require Defendants to pay all compensation
22 due and owing to Plaintiff and Class members immediately upon discharge or within seventy-two
23 hours of resignation. Defendants have operated under and continue to operate under a common
24 policy and plan of willfully failing and refusing to pay unpaid wages and overtime owed to
25 Plaintiff and the other Class members upon termination, as required by Sections 201 and 202.

26 59. As a result of its willful failure to pay Plaintiff and other Class members owed
27 wages upon termination, Defendants are liable for statutory waiting time penalties pursuant to
28 California Labor Code § 203.

THIRD CAUSE OF ACTION

1 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**
2 **(California Labor Code § 226; Brought by Plaintiff on**
3 **Behalf of Herself and the Class Against Both Defendants)**

4 60. Plaintiff, on behalf of herself and the Class, repeats and re-alleges each and every
5 allegation contained in the foregoing paragraphs as if fully set forth herein.

6 61. California Labor Code § 226(a) requires employers to provide employees, semi-
7 monthly or at the time of each payment of wages, with a statement that accurately reflects certain
8 itemized information, including total number of hours worked. Defendants knowingly and
9 intentionally failed to furnish and continue to fail to furnish Plaintiff and each Class member with
10 timely and accurate wage statements that accurately reflect total number of hours worked and
11 wages earned, as required by Section 226.

12 62. As a result of Defendants' failure to provide accurate itemized wage statements,
13 Plaintiffs and Class members suffered actual damages and harm by being unable to determine the
14 amount of overtime worked each pay period in a timely manner, which prevented them from
15 asserting their rights under California law.

16 63. As a result, Defendants are liable to Plaintiff and each Class member for the
17 amounts provided by California Labor Code § 226(e): the greater of actual damages or fifty
18 dollars (\$50) for the initial violation and one hundred dollars (\$100) for each subsequent
19 violation, up to four thousand dollars (\$4,000).

20 **FOURTH CAUSE OF ACTION**
21 **UNLAWFUL AND UNFAIR BUSINESS PRACTICES**
22 **(California Business and Professions Code §§ 17200 *et seq.*; Brought by Plaintiff on**
23 **Behalf of Herself and the Class Against Both Defendants)**

24 64. Plaintiff, on behalf of herself and the Class, repeats and re-alleges each and every
25 allegation contained in the foregoing paragraphs as if fully set forth herein.

26 65. Each Defendant is a "person" as defined under California Business & Professions
27 Code § 17021.

28 66. Defendants' willful failure to pay Contract Recruiters for all overtime and
minimum wages due, failure to maintain accurate time records for Contract Recruiters, failure to
timely furnish Contract Recruiters with statements accurately showing their hours worked, and

1 failure to timely pay Contract Recruiters all owed wages upon separation, constitute unlawful and
2 unfair activity prohibited by California Business and Professions Code § 17200.

3 67. As a result of its unlawful and unfair acts, Defendants have reaped and continue to
4 reap unfair benefits and illegal profits at the expense of Plaintiff and the other Class members.

5 68. Defendants should be made to disgorge these ill-gotten gains and restore to
6 Plaintiff and the other Class members the wrongfully withheld wages to which they are entitled,
7 interest on these wages, and all other injunctive and preventive relief authorized by California
8 Business and Professions Code §§ 17202 and 17203.

9 69. This action is designed to ensure the enforcement of an important right affecting
10 the public interest and a large number of contract workers. The necessity and financial burden of
11 private enforcement is great, and the risks to the named plaintiff for stepping forward are also
12 significant. As such, Plaintiff would be entitled to attorneys' fees should she prevail, and such
13 fees should not in the interest of justice be paid out of the recovery.

14 **FIFTH CAUSE OF ACTION**
15 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
16 **(Common Law, Brought by Plaintiff on Behalf of Herself Against Both Defendants)**

17 70. Plaintiff repeats and re-alleges each and every allegation contained in the
18 foregoing paragraphs as if fully set forth herein.

19 71. California recognizes a common law claim for wrongful termination where the
20 discharge is in violation of a fundamental public policy.

21 72. Wage and hour laws concern the public health and general welfare, as well as the
22 welfare of employees themselves.

23 73. Under California law, employees have a right to be paid for all wages earned.

24 74. An employer's duty to pay earned overtime wages is a fundamental public policy
25 affecting the broad public interest.

26 75. It is a crime under Labor Code § 1199 for an employer to fail to pay overtime
27 wages as fixed by the Industrial Welfare Commission.

28 76. Under California common law, it is a tortious act for an employer to terminate an

1 employee for complaining that she was not paid for overtime worked.

2 77. Under California common law, it is a tortious act for an employer to terminate an
3 employee for complaining that other employees were not paid for overtime worked.

4 78. Plaintiff complained to Defendants in good faith about their failure to pay
5 overtime worked by her and other Contract Recruiters.

6 79. Defendants terminated Plaintiff in retaliation for her complaint of unpaid
7 overtime.

8 80. The termination caused Plaintiff monetary and other harm.

9 81. Plaintiff requests relief as described below.

10 **SIXTH CAUSE OF ACTION**
11 **RETALIATION FOR PROTECTED ACTIVITY**
12 **(California Labor Code § 1102.5, Brought by Plaintiff on Behalf of Herself Against Both**
13 **Defendants)**

14 82. Plaintiff repeats and re-alleges each and every allegation contained in the
15 foregoing paragraphs as if fully set forth herein.

16 83. As set forth above, Plaintiff complained to and disclosed information to managers
17 about Defendants' failure to pay for overtime work, and these managers had authority over her
18 and other Contract Recruiters and had authority to investigate, discover, or correct the failure to
19 pay for overtime work.

20 84. Plaintiff had reasonable cause to believe that the information she provided to her
21 managers disclosed a violation of overtime laws.

22 85. Defendants retaliated against Plaintiff for engaging in activities protected by the
23 California Labor Code by terminating Plaintiff's employment with UrpanTech and Google.

24 86. Defendants' termination of Plaintiff was an adverse employment action that
25 caused Plaintiff monetary and other harm.

26 87. Plaintiff requests relief as described below.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiff, on behalf of herself and the Class, request the following relief
against Defendants:

