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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
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12 MITRA ERAMI, MARIA
13 MCGLYNN, BRITTANY SANCHEZ,
14 individually and on behalf of other
15 members of the general public similarly
situated,

16 Plaintiffs,

17 vs.

18 JPMORGAN CHASE BANK, National
19 Association,

20 Defendant.
21

Case No.: 2:15-cv-07728-PSG-PLA

**SECOND AMENDED
COMPLAINT**

[CLASS ACTION]

- 1. Labor Code §§ 510, 1194
- 2. B&P § 17200 - Overtime
- 3. B&P § 17200 – Meal and Rest
Breaks
- 4. B&P 17200 – Injunction/Dec. Relief
- 5. Labor Code § 203
- 6. Labor Code § 226, 1174, 1174.5
- 7. Labor Code § 2699 et seq.

JURY TRIAL DEMANDED

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GENERAL ALLEGATIONS

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2 1. Plaintiff Mitra Erami was an Assistant Branch Manager for defendant
3 JPMorgan Chase Bank, National Association (“Defendant”) in Alameda County,
4 California, within the last three years of the filing of the original complaint in this
5 action.

6 2. Plaintiff Maria McGlynn was an Assistant Branch Manager for
7 Defendant in San Diego County, California, within the last three years of the
8 filing of the original complaint in this action and within a year from the filing of
9 this Second Amended Complaint.

10 3. Plaintiff Brittany Sanchez was an Assistant Branch Manager for
11 Defendant in Santa Barbara County and Ventura County, California, within the
12 last three years of the filing of the original complaint in this action and within a
13 year of the filing of this Second Amended Complaint.

14 4. Defendant Chase Bank is a wholly owned subsidiary of JPMorgan
15 Chase &Co. Defendant is a bank that owns and operates retail banks in this
16 judicial district and in the state of California. Defendant has employees with the
17 title “Assistant Branch Manager.”

18 5. Venue is proper in the Central District of California as at least some
19 of the acts complained of herein occurred in the Central District of California as
20 Defendant owns and operates banks in the Central District of California. Venue
21 was established in this judicial district as a result of a motion to transfer due to a
22 related case then pending in this judicial district.

23 6. At all times herein mentioned, Plaintiffs and the class identified
24 herein worked as employees for Defendant in salaried positions in Defendant’s
25 branch and retail locations under the business name “Chase.” At all times herein
26 mentioned, Plaintiffs and the class have been, and continue to be, domiciled in the
27 state of California.

28 7. At all times herein mentioned Defendant is a business entity licensed

1 to do business and actually doing business in the Central District of California.
2 Defendant owns and operates an industry, business and establishment in a number
3 of separate geographic locations within the State of California, including within
4 the Central District of California, for the purpose of selling banking services and
5 products. As such, and based upon all the facts and circumstances incident to
6 Defendant's business in California, Defendant is subject to California Labor Code
7 §§ 1194 *et seq.*, California Business and Professions Code § 17200 *et seq.*, (Unfair
8 Practices Act) and the applicable Industrial Welfare Commission Wage Orders.

9 8. Plaintiffs do not know the true names or capacities, whether
10 individual, partner or corporate, of other possible responsible parties and Plaintiffs
11 pray leave to amend this complaint when the true names and capacities are known.
12 Each of the other potentially responsible parties were responsible in some way for
13 the matters alleged herein and proximately caused Plaintiffs and members of the
14 class to be subject to the illegal employment practices, wrongs and injuries
15 complained of herein.

16 **FACTUAL ALLEGATIONS**

17 9. Pursuant to California Labor Code §§ 218, 218.6, and 1194, Plaintiffs
18 may bring a civil action for overtime wages directly against the employer without
19 first filing a claim with the California Division of Labor Standards Enforcement
20 and may recover such wages, together with interest thereon, penalties, attorney
21 fees and costs.

22 10. Plaintiffs and all members of the class identified herein were
23 regularly scheduled as a matter of uniform company policy to work and in fact
24 worked as salaried bank employees in excess of eight hours per workday and/or in
25 excess of forty hours per workweek without receiving straight time or overtime
26 compensation for such overtime hours worked in violation of California Labor
27 Code §§ 510, 1194 and California Industrial Welfare Commission Wage Order 4-
28 2001. Defendant has failed to meet the requirements for establishing the

1 exemption because all class members (a) regularly spent more than 50% of their
2 time performing nonexempt work, (b) did not customarily and regularly exercise
3 discretion and independent judgment on matters of significance, (c) did not have
4 the authority to hire or fire or make meaningful recommendations regarding same,
5 (d) did not customarily and regularly supervise at least two employees or the
6 equivalent, (e) did not perform work directly related to the management policies
7 or the general business operations of Defendant or Defendant’s customers, (f) did
8 perform nonexempt production and/or sales work a majority of their time (i.e., in
9 excess of 50%) consistent with Defendant’s realistic expectations, (g) did not
10 customarily and regularly spend more than 50% of their time away from the
11 Defendant’s places of business selling or obtaining orders or contracts, and (h) did
12 not earn more than 50% of their compensation in a bona fide commission plan.
13 Thus, Plaintiffs and the class members were not exempt from the overtime
14 requirements of California law for these reasons.

15 **CLASS ALLEGATIONS**

16 11. This complaint is brought by Plaintiffs pursuant to Federal Rule of
17 Civil Procedure 23 and California Code of Civil Procedure § 382 on behalf of a
18 class. All claims alleged herein arise under California law for which Plaintiffs
19 seek relief authorized under California law. The class is comprised of, and
20 defined as:

21 All current and former California based employees of
22 JPMorgan Chase Bank, National Association, with the
23 title “Assistant Branch Manager” who worked at any
time from February 25, 2011 up to the time of trial.

24 12. The members of the classes are so numerous that joinder of all
25 members is impracticable. The exact number of the members of the classes can
26 be determined by reviewing Defendant’s records.

27 13. Plaintiffs will fairly and adequately protect the interests of the class
28 and have retained counsel that is experienced and competent in class action and

1 employment litigation. Plaintiff has no interests that are contrary to, or in conflict
2 with, members of the class.

3 14. A class action suit, such as the instant one, is superior to other
4 available means for fair and efficient adjudication of this lawsuit. The damages
5 suffered by individual members of the class may be relatively small when
6 compared to the expense and burden of litigation, making it virtually impossible
7 for members of the class to individually seek redress for the wrongs done to them.

8 15. A class action is, therefore, superior to other available methods for
9 the fair and efficient adjudication of the controversy. Absent these actions, the
10 members of the class likely will not obtain redress of their injuries and Defendant
11 will retain the proceeds of its violations of California law.

12 16. Even if any member of the class could afford individual litigation
13 against Defendant, it would be unduly burdensome to the judicial system.
14 Concentrating this litigation in one forum will promote judicial economy and
15 parity among the claims of individual members of the class and provide for
16 judicial consistency.

17 17. There is a well-defined community of interest in the questions of law
18 and fact affecting the Class as a whole. Questions of law and fact common to
19 each of the class predominate over any questions affecting solely individual
20 members of the action. Among the common questions of law and fact are:

21 a. Whether the class has been properly classified as exempt by
22 Defendant from overtime compensation;

23 b. Whether the class is expected to regularly work hours in excess
24 of forty per week and/or in excess of eight hours per day;

25 c. How the class is compensated; and,

26 d. Whether the class has sustained damages and, if so, what the
27 proper measure of damages is.
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FIRST CAUSE OF ACTION

(Labor Code §§ 510, 1194)

18. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

19. California Wage Order 4-2001, 8 C.C.R. § 11040, and Labor Code § 510 state that an employee must be paid overtime, equal to 1.5 times the employee’s regular rate of pay, for all hours worked in excess of 40 per week and/or 8 per day.

20. Class members regularly work more than 40 hours per week and/or 8 hours per day but are not paid overtime.

21. Class members do not meet any of the tests for exempt status under the California Wage Orders and/or the California Labor Code.

22. Plaintiffs and the class seek their unpaid overtime wages including interest thereon and reasonable attorneys’ fees and costs pursuant to Labor Code § 1194.

SECOND CAUSE OF ACTION

(Bus. & Prof. Code § 17203 – Overtime)

23. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

24. Defendant has committed an act of unfair competition under California Business & Professions Code § 17200 *et seq.* by not paying the required state law overtime pay to the members of the class.

25. Pursuant to Bus. & Prof. Code § 17203, Plaintiffs request an order requiring Defendant to make restitution of all overtime wages due to the class.

THIRD CAUSE OF ACTION

(Bus. & Prof. Code § 17203 – Meal and Rest Breaks)

26. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

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FIFTH CAUSE OF ACTION

(Labor Code § 203)

31. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

32. Plaintiffs and the class were discharged by Defendant or voluntarily quit, and did not have a written contract for employment. The Defendant, in violation of California Labor Code §§ 201 and 202 *et seq.* had a consistent and uniform policy, practice and procedure of willfully failing to pay the earned and unpaid wages of all such former employees. The Defendant has willfully failed to pay the earned and unpaid wages of such individuals, including, but not limited to, straight time, overtime, vacation time, meal and rest wages, and other wages earned and remaining uncompensated according to amendment or proof. Plaintiffs and the class did not secret or absent themselves from Defendant nor refuse to accept the earned and unpaid wages from Defendant. Accordingly, Defendant is liable for waiting time penalties for the unpaid wages pursuant to California Labor Code § 203.

SIXTH CAUSE OF ACTION

(Labor Code §§ 226, 1174, and 1174.5)

33. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

34. Defendant, as a matter of corporate policy did not maintain or provide accurate itemized statements in violation of Labor Code §§ 226 and 1174.

35. For instance, Defendant did not state or did not accurately state, *inter alia*, the total hours worked, hours worked daily, or the actual hourly rate of Plaintiffs and other Assistant Branch Managers in their pay statements. Defendant's failure to maintain accurate itemized statements was willful, knowing, intentional, and the result of Defendant's custom, habit, pattern and practice. Defendant's failure to maintain accurate itemized statements was not the

1 result of isolated, sporadic or unintentional behavior. Due to Defendant’s failure
2 to comply with the requirements of Labor Code §§ 226 and 1174, Plaintiffs and
3 other Assistant Branch Managers were injured thereby.

4 36. Such a pattern and practice as alleged herein is unlawful and creates
5 an entitlement to recovery by Plaintiffs and the class identified herein for all
6 damages and penalties pursuant to Labor Code §§ 226 and 1174.5, including
7 interest thereon, penalties, attorneys’ fees and costs.

8 **SEVENTH CAUSE OF ACTION**

9 **(Labor Code § 2699 et seq.)**

10 37. Plaintiffs incorporate the allegations contained in the previous
11 paragraphs of this Complaint as if fully set forth herein.

12 38. As alleged above, Defendant failed to comply with the California
13 Labor Code. As such, Plaintiffs are “aggrieved employees” as defined in Labor
14 Code § 2699(a). Pursuant to Labor Code § 2699, the Labor Code Private
15 Attorneys General Act of 2004, Plaintiffs bring this action on behalf of themselves
16 and other current and former Assistant Branch Managers against JP Morgan
17 Chase Bank, National Association and seeks recovery of applicable civil penalties
18 as follows:

19 a. where civil penalties are specifically provided in the Labor Code for
20 each of the violations alleged herein, Plaintiffs seek recovery of such
21 penalties;

22 b. where civil penalties are not established in the Labor Code for each
23 of the violations alleged herein, Plaintiffs seek recovery of the penalties
24 established in § 2699(e) of the Labor Code Private Attorneys General
25 Act of 2004, and in accordance with § 200.5 of the Labor Code.

26 39. On February 26, 2015, Plaintiff Erami caused to be served written
27 notice via certified mail to the Labor and Workforce Development Agency and to
28 Defendant JP Morgan Chase Bank, National Association of Plaintiff’s intent to
amend the complaint to add a cause of action pursuant to Labor Code § 2699 *et*

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JURY DEMAND

Plaintiffs hereby request a jury trial on all issues so triable.

Dated: March 7, 2016

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By: _____/s/Edward J. Wynne

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