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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEREMY SCHNEIDER, on behalf of himself
and all others similarly situated

No. C 11-2489 MMC

Plaintiff,

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS PLAINTIFF'S
THIRD AMENDED COMPLAINT**

v.

SPACE SYSTEMS/LORAL, INC., a
Delaware corporation, and DOES 1 through
100, inclusive,

Defendants.

Before the Court is defendant Space Systems/Loral, Inc.'s ("SSL") motion to dismiss plaintiff Jeremy Schneider's ("Schneider") Third Amended Complaint ("TAC") pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Schneider has filed opposition, to which SSL has replied. The Court, having read and considered the papers filed in support of and in opposition to the motion, deems the matter suitable for decision on the parties' respective written submissions, and rules as follows.¹

BACKGROUND

SSL is a Delaware corporation (see TAC ¶ 9) that designs, manufactures, and integrates satellites and satellite systems for commercial and government customers around the world (see Joint Case Management Statement, filed August 5, 2011, at 1:12-

¹ By order filed May 22, 2012, the Court vacated the hearing on the motion.

1 13). Schneider worked for SSL as an “associate manufacturing engineer” and
2 “manufacturing engineer.” (See TAC ¶ 7.) In his TAC, as in his First Amended Complaint
3 (“FAC”) and Second Amended Complaint (“SAC”), Schneider alleges that his job duties, as
4 well as those of several other categories of engineer positions at SSL, consisted primarily
5 of repetitive and routine functions (see TAC ¶ 14) and that SSL incorrectly classified
6 engineers as exempt under California laws requiring overtime pay, and, consequently,
7 failed to pay the engineers as so required (see TAC ¶¶ 14-17).

8 Based on the above allegations, the TAC asserts five causes of action: (1) failure to
9 pay overtime wages in violation of California Labor Code §§ 510, 1194; (2) failure to timely
10 pay all wages due in violation of California Labor Code § 203; (3) failure to provide accurate
11 wage statements in violation of California Labor Code § 226; (4) unfair competition in
12 violation of California Business and Professions Code §§ 17200 et seq.; and (5) violations
13 warranting penalties under the Private Attorneys General Act of 2004, California Labor
14 Code §§ 2698 et seq.

15 LEGAL STANDARD

16 “Dismissal under Rule 12(b)(6) can be based on the lack of a cognizable legal theory
17 or the absence of sufficient facts alleged under a cognizable legal theory.” See Balistreri v.
18 Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990). In analyzing a motion to dismiss,
19 a district court must accept as true all material allegations in the complaint, and construe
20 them in the light most favorable to the nonmoving party. See NL Indus., Inc. v. Kaplan, 792
21 F.2d 896, 898 (9th Cir. 1986). “To survive a motion to dismiss,” however, “a complaint
22 must contain sufficient factual material, accepted as true, to ‘state a claim to relief that is
23 plausible on its face.’” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009) (quoting Bell Atlantic
24 Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “Factual allegations must be enough to raise
25 a right to relief above the speculative level.” Twombly, 550 U.S. at 555. Courts “are not
26 bound to accept as true a legal conclusion couched as a factual allegation.” Iqbal, 129 S.
27 Ct. at 1950.

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1 **DISCUSSION**

2 By order filed September 15, 2011, the Court dismissed Schneider’s FAC because it
3 lacked sufficient facts to support a cognizable legal theory.² (See Order Granting Motion to
4 Dismiss First Amended Complaint, filed September 15, 2011 (“Sept. 15 Order”) at 3:19-
5 4:25.) As set forth in said order, the Court found Schneider’s allegations regarding
6 uncompensated overtime were “only bare assertions untethered to any facts about
7 Schneider’s particular employment history” and, consequently, insufficient to state a claim.
8 (See *id.* at 3:21-22, 4:4-5 (citing *Iqbal*, 129 S. Ct. at 1949)).

9 By order filed February 14, 2012, the Court dismissed Schneider’s SAC and found
10 the additional allegations included therein were “essentially the same as the conclusory
11 allegations in the FAC, and, for the same reasons . . . insufficient.” (See Order Granting
12 Motion to Dismiss Second Amended Complaint, filed February 14, 2012 (“Feb. 14 Order”)
13 at 3:18-19.)

14 In the instant motion, SSL argues Schneider again fails to plead sufficient facts to
15 support his claims. The Court discusses each such claim in turn.

16 **1. First Cause of Action**

17 Schneider’s First Cause of Action, asserting a claim for uncompensated overtime, is,
18 contrary to SSL’s argument, now supported by sufficient factual allegations, specifically,
19 “facts setting out the uncompensated hours Schneider worked, or . . . facts otherwise
20 demonstrating he actually worked overtime.” (See Feb. 14 Order at 4:2-3.) In the SAC,
21 Schneider’s overtime claim had been supported only by the conclusory allegation that he
22 and other members of the putative class “worked significant overtime.” (See SAC ¶¶ 23,
23 36.) By contrast, in the instant complaint, Schneider specifies that “Schneider often worked
24 more than 8 hours in a day in order to complete his required assignments,” (TAC
25 ¶ 18), and that “there were times when, due to his workload, he had to work more than 12
26 hours in a day,” (*id.*). Schneider further states, “[f]or example, there were periods when,

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28 ² Thereafter, on September 27, 2011, the above-titled action was reassigned to the undersigned.

1 due to issues he had to deal with on the manufacturing floor, he had to work in excess of
2 12-hour days,” (id.) and that, “[s]ince [SSL] misclassified him as exempt, [it] did not pay
3 [him] for this overtime worked” (id.).

4 Contrary to SSL’s argument, the absence of allegations setting forth the specific
5 dates on which Schneider worked does not render the First Cause of Action subject to
6 dismissal. See Acho v. Cort, No. C 09-00157 MHP, 2009 WL 3562472 at *7-8 (N.D. Cal.
7 Oct. 27, 2009) (holding plaintiff adequately stated overtime claim; noting “[i]t cannot be the
8 case that a plaintiff must plead specific instances of unpaid overtime before being allowed
9 to proceed to discovery to access the employer’s records”); cf. Anderson v. Blockbuster,
10 Inc., No. 2:10-cv-00158-MCE-GGH, 2010 WL 1797249 (E.D. Cal. May 4, 2010) (finding
11 complaint insufficient where plaintiff alleged “[p]laintiff and class members consistently
12 worked in excess of eight hours in a day, in excess of 12 hours in a day and/or in excess of
13 40 hours in a week”) (emphasis added); Deleon v. Time Warner Cable LLC, No. CV 09-
14 2438 AG (RNBx), 2009 U.S. Dist LEXIS 74345 (C.D. Cal. July 17, 2009) (same).³

15 Accordingly, SSL fails to show the First Cause of Action is subject to dismissal.
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18 ³ The other authorities on which SSL relies likewise are distinguishable, for the
19 reason that the plaintiffs therein pleaded no more than the conclusory allegation that they
20 were required to work “overtime” without pay, see Weigele v. FedEx Ground Package
21 System, Inc., No. 06-CV-1330 JLS, 2010 WL 4723673 at *4 (S.D. Cal. Nov. 15, 2010)
22 (finding complaint insufficient where plaintiffs alleged defendant “required [them] to work
23 overtime without lawful compensation”); Pruell v. Caritas Christi, No. 09-11466-GAO, 2010
24 WL 3789318 at *3 (D. Mass. Sept. 27, 2010) (finding complaint insufficient where plaintiffs
25 alleged defendant “fail[ed] to pay overtime”); Jones v. Casey’s General Stores, 538
26 F. Supp. 2d 1094, 1102 (S.D. Iowa 2008) (finding complaint insufficient where plaintiffs
27 alleged they “regularly worked . . . overtime each week but were not paid . . . overtime
28 wages”), or otherwise pleaded their claims in an ambiguous manner, see Desilva v. North
Shore-Long Island Jewish Health System, Inc., et al., 770 F. Supp. 2d 497, 509 (E.D.N.Y.
2011) (finding “boilerplate complaint” insufficient where multiple named plaintiffs relied on
multiple policies, without differentiation, to support overtime claim); Gutierrez v. Aaron’s
Inc., No. 2:10-cv-02417-MCE-EFB, 2010 WL 4968142 at *3 (E.D. Cal. Dec. 1, 2010)
(finding complaint insufficient where plaintiff, who worked at two different locations, alleged
employer had policy of subtracting thirty minutes from paychecks where employees worked
more than six hours and plaintiff did not “allege where and when [d]efendant implemented
this policy”); Mell v. GNC Corp., No. 10-945, 2010 WL 4668966 at *7 (W.D. Pa. Nov. 9,
2010) (finding complaint insufficient where plaintiffs alleged defendants required them to
work “off the clock”).

1 **2. Second Cause of Action**

2 Schneider's Second Cause of Action, asserting a claim for waiting-time penalties
3 under California Labor Code § 203, is, contrary to SSL's argument, now supported by
4 sufficient factual allegations, specifically, facts sufficient to support an inference that SSL
5 acted "willfully." See Cal. Lab. Code § 203 (providing recovery "[i]f an employer willfully
6 fails to pay . . . any wages of an employee who is discharged or who quits"). Although
7 Schneider again alleges SSL "knew that the work being performed by the Plaintiff Class
8 members did not qualify for any of the overtime exemptions under California law . . . knew
9 that these non-exempt employees, including Schneider, were actually working overtime
10 hours . . . [and] [d]espite this knowledge . . . willfully refused to pay these employees this
11 lawful overtime compensation," (see TAC ¶ 36), such allegations are to be interpreted in
12 the context of Schneider's allegations as a whole, including his allegations describing the
13 "incredibly detailed blueprint" under which class members worked (see TAC ¶ 15), as well
14 as his new allegations demonstrating Schneider actually worked uncompensated overtime
15 hours. See *Iqbal*, 129 S. Ct. at 1954 (noting allegations as to state of mind must be
16 considered in "reference to [the allegation's] factual context"; also noting "a rigid rule
17 requiring the detailed pleading of a condition of mind would be undesirable") (internal
18 quotation and citation omitted). Taken in the context of the TAC as a whole, Schneider's
19 allegations are sufficient to state a claim.

20 Accordingly, SSL fails to show the Second Cause of Action is subject to dismissal.

21 **3. Third Cause of Action**

22 Schneider's Third Cause of Action, asserting a claim for wage statement violations
23 under California Labor Code § 226, is, contrary to SSL's argument, supported by sufficient
24 factual allegations, specifically, facts sufficient to allege an injury cognizable under said
25 statute. See Cal. Lab. Code § 226(a) (requiring employer to provide "accurate itemized
26 statement in writing showing . . . (2) total hours worked by the employee . . . (5) net wages
27 earned"); id. § 226(e) (providing Cause of Action for "[a]n employee suffering injury as a
28 result of a . . . failure by an employer" to comply with wage statement requirements).

1 Schneider's claim is based on the allegation that his wage statements "failed to
2 include all hours worked . . . and payment for the same." (See TAC ¶ 38.) As Schneider
3 correctly points out, California courts have recognized a form of "mathematical injury,"
4 cognizable under § 226, which occurs where plaintiffs are obliged "to engage in discovery
5 and mathematical computations to reconstruct time records to determine if they were
6 correctly paid." See Price v. Starbucks Corp., 192 Cal. App. 4th 1136, 1143 (2011); see
7 also Elliot v. Spherion Pacific Work, LLC, 572 F. Supp. 2d 1169, 1181 (C.D. Cal. 2008)
8 (noting types of injuries cognizable under § 226 include "the possibility of not being paid
9 overtime, employee confusion over whether they received all wages owed them, difficulty
10 and expense involved in reconstructing pay records, and forcing employees to make
11 mathematical computations to analyze whether the wages paid in fact compensated them
12 for all hours worked"). Here, Schneider alleges SSL "failed to keep accurate time records"
13 (see TAC ¶ 39), and, as a result, he "do[es] not know how much [he is] actually owed in
14 wages" (see TAC ¶ 41). Under such circumstances, a reasonable inference can be drawn
15 that Schneider, in order to determine how much he should have been paid, will be required
16 to "engage in discovery and mathematical computations" in an effort to reconstruct the
17 missing information. See Price, 192 Cal. App. 4th at 1143; see also Jaimez v. DAIOHS
18 USA, Inc., 181 Cal. App. 4th 1286, 1306 (2010) (noting, under § 226, "[w]hile there must be
19 some injury in order to recover damages, a very modest showing will suffice").⁴

20 Accordingly, SSL fails to show the Third Cause of Action is subject to dismissal.
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23 ⁴ The authorities on which SSL relies are distinguishable on their facts, either
24 because they were "based solely" on an inadequately pleaded underlying claim, see Lopez
25 v. Wendy's Intern., Inc., No. CV 11-00275 MMM (JCx), 2011 WL 6967932 at *8-9 (C.D.
26 Cal. Sept. 19, 2011), or because the only missing information at issue therein could be
27 readily obtained by simple mathematical calculation, see Hill v. Sullivan Automotive Group,
28 LLC, No. B225186, 2011 WL 1879420 at *4-5 (Cal. Ct. App. May 18, 2011) (finding no
injury under § 226 where wage statement omitted "grand total of regular and overtime
hours worked"; noting "determining the total hours worked from the other information that
appeared on the wage statement was a matter of simple math"); see also Price, 192 Cal.
App. 4th at 1143 (finding no injury under § 226 where claim based on need for "simple
math" and "not based upon any allegation that the information [was] inaccurate").

1 **4. Fourth and Fifth Causes of Action**

2 SSL's sole challenge to Schneider's Fourth Cause of Action, alleging unfair
3 competition (see TAC ¶ 44-50), and Schneider's Fifth Cause of Action, brought under the
4 Private Attorney Generals Act (see TAC ¶¶ 51-53), is that they are derivative of
5 Schneider's First Cause of Action. As discussed above, Schneider's First Cause of Action
6 is adequately alleged.

7 Accordingly, SSL fails to show the Fourth and Fifth Causes of Action are subject to
8 dismissal.

9 **5. Class Allegations**


10 SSL's arguments as to the sufficiency of Schneider's class allegations are, as the
11 Court has previously observed, "a Rule 23 issue, which is distinct from a pleading issue . . .
12 [and] not at issue at the present time." (See Sept. 15 Order at 6 n.6.)

13 **CONCLUSION**

14 For the reasons set forth above, defendant's motion to dismiss the TAC is hereby
15 DENIED.

16 **IT IS SO ORDERED.**

17 Dated: June 1, 2012

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19 MAXINE M. CHESNEY
20 United States District Judge
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