

1 Shaun Setareh (SBN 204514)
 shaun@setarehlaw.com
 2 Thomas Segal (SBN 222791)
 thomas@setarehlaw.com
 3 Farrah Grant (SBN 293898)
 farrah@setarehlaw.com
 4 SETAREH LAW GROUP
 5 9665 Wilshire Boulevard, Suite 430
 6 Beverly Hills, California 90212
 Telephone: (310) 888-7771
 7 Facsimile: (310) 888-0109

8 Attorneys for Plaintiff,
 9 CHRISTIANA BUSH

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

13 CHRISTIANA BUSH, on behalf of herself,
 all others similarly situated, and the general
 14 public,

15 *Plaintiff,*

16 vs.

17 VACO LLC, a Tennessee limited liability
 18 company; GOOGLE, INC., a Delaware
 19 corporation; and DOES 1 to 50, inclusive,

20 *Defendants.*

Case No. 5:17-cv-05605-BLF

Assigned For All Purposes to the Honorable
 Beth Labson Freeman, Courtroom 3

CLASS ACTION

FIFTH AMENDED COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512, and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7, and 1198);
3. Failure to Pay Hourly Wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1, and 1198);
4. Failure to Indemnify (Lab. Code § 2802);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code § 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201-203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200, *et seq.*);
8. Failure to Pay Employees for All Hours Worked (29 U.S.C. § 201, *et seq.*);

JURY TRIAL DEMANDED

1 Plaintiff Christiana Bush (referred to as “Plaintiff”), on behalf of herself, all others
2 similarly situated, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against Defendants Vaco
5 LLC, Google, Inc., and Does 1 to 50, inclusive (collectively referred to as “Defendants”) for
6 alleged violations of the Labor Code and Business and Professions Code. As set forth below,
7 Plaintiff alleges that Defendants failed to provide her and all other similarly situated individuals
8 with meal periods, failed to provide them with rest periods, failed to pay premium wages for
9 missed meal and/or rest periods, failed to pay them for all hours worked, failed to pay overtime
10 wages at the correct rate, failed to pay double time wages at the correct rate, failed to reimburse
11 them for all necessary business expenses, failed to provide them with accurate written wage
12 statements, and failed to timely pay them all of their final wages following separation of
13 employment. Based on these alleged violations, Plaintiff now brings this class and
14 representative action to recover unpaid wages, restitution, and related relief on behalf of herself,
15 all others similarly situated, and the general public.

16 **JURISDICTION AND VENUE**

17 2. This Court has original subject matter jurisdiction over Plaintiff’s claims under the
18 Fair Labor Standards Act (“FLSA”) pursuant to 28 U.S.C. section 1331.

19 3. Venue is proper in this District under 28 U.S.C. section 1392(b)(2) because a
20 substantial part of the events and omissions giving rise to the claims alleged in this complaint
21 occurred in this District.

22 4. The Court has personal jurisdiction over this matter because Defendants’ conduct
23 substantial business activity in this District, and because many of the unlawful acts described in
24 this complaint occurred in this District and gave rise to the claims alleged.

25 **PARTIES**

26 5. Plaintiff Christiana Bush (“Plaintiff”) is, and at all relevant times mentioned
27 herein, an individual residing in Mountain View, California.

28 6. Plaintiff is informed and believes, and thereupon alleges that Defendant Vaco

1 LLC (“Vaco”) is, and at all relevant times mentioned herein, a Tennessee limited liability
2 company doing business in the State of California.

3 7. Plaintiff is informed and believes, and thereupon alleges that Defendant Google,
4 Inc. (“Google”) is, and at all relevant times mentioned herein, a Delaware corporation doing
5 business in the State of California.

6 8. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
7 participation in the conduct alleged herein, of the defendants sued as Does 1 to 50, inclusive, but
8 is informed and believes that said defendants are legally responsible for the conduct alleged
9 herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this
10 complaint to allege both the true names and capacities of the Doe defendants when ascertained.

11 9. Plaintiff is informed and believes that each defendant acted in all respects
12 pertinent to this action as the agent of the other defendants, carried out a joint scheme, business
13 plan or policy in all respects pertinent hereto, and that the acts of each defendant are legally
14 attributable to each of the other defendants.

15 CLASS ALLEGATIONS

16 10. This action has been brought and may be maintained as a class action pursuant to
17 Federal Rules of Civil Procedure 23 because there is a well-defined community of interest
18 among the persons who comprise the readily ascertainable classes defined below and because
19 Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class
20 action.

21 11. **Action:** The Action is defined as the suit filed on August 24, 2017 with the Santa
22 Clara County Superior Court, Case No. 17CV314988, on behalf of Plaintiff Christina Bush, all
23 others similarly situated against Defendants.

24 12. **Relevant Time Period:** The relevant time period is defined as the time period
25 beginning four years prior to the filing of the Action until judgment is entered.

26 13. The class and sub-class members are defined as follows:

27 **Google Expedition Class:** All persons employed directly by Google and/or
28 through any staffing agencies, including but not limited to Vaco LLC, who
worked in schools to promote Google Expedition s in the United States during the
Relevant Time Period.

1 **Google Expedition California Sub-Class:** All persons employed directly
2 by Google and/or through any staffing agencies (including Vaco LLC)
3 who worked in schools to promote Google Expedition in California during
4 the **Relevant Time Period**.

5 **Order Audit Operation Specialist Class:** All persons employed directly by
6 Google and/or through any staffing agencies, including, but not limited to Vaco
7 LLC, in the United States during the **Relevant Time Period**.

8 **Order Audit Operation Specialist California Sub-Class:** All persons
9 employed directly by Google and/or through any staffing agencies
10 (including Vaco LLC) who input data into Google system concerning
11 which movies and television shows to go live in California during the
12 **Relevant Time Period**.

13 **Content Bug Technician Class:** All persons employed directly by Google and/or
14 through any staffing agencies, including, but not limited to Vaco LLC, in the
15 United States during the **Relevant Time Period**.

16 **Content Bug Technician California Sub-Class:** All persons employed
17 directly by Google and/or through any staffing agencies (including Vaco
18 LLC) who conducted quality assurance for YouTube Live in California
19 during the **Relevant Time Period**.

20 **UCL Class:** All Google Expedition Class, Order Audit Operation Specialist
21 Class and Content Bug Technician Class members employed by Defendants in
22 California during the **Relevant Time Period**.

23 14. **Reservation of Rights:** Pursuant to Federal Rules of Civil Procedure 23,
24 Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by
25 further division into sub-classes, and/or by limitation to particular issues.

26 15. **Numerosity:** The class members are so numerous that the individual joinder of
27 each individual class member is impractical. While Plaintiff does not currently know the exact
28 number of class members, Plaintiff is informed and believes that the actual number exceeds the
29 minimum required for numerosity under California law.

30 16. **Commonality and Predominance:** Common questions of law and fact exist as
31 to all class members and predominate over any questions which affect only individual class
32 members. These common questions include, but are not limited to:

33 A. Whether Defendants maintained a policy or practice of failing to provide
34 employees with their meal periods;

35 B. Whether Defendants maintained a policy or practice of failing to provide
36 employees with their rest periods;

1 C. Whether Defendants failed to pay premium wages to class members when
2 they have not been provided with required meal and/or rest periods;

3 D. Whether Defendants failed to pay minimum and/or overtime wages to
4 class members as a result of policies that fail to provide meal periods in accordance with
5 California law?

6 E. Whether Defendants failed to reimburse class members for all necessary
7 business expenses incurred during the discharge of their duties;

8 F. Whether Defendants failed to provide class members with accurate written
9 wage statements as a result of providing them with written wage statements with inaccurate
10 entries for, among other things, amounts of gross and net wages, and total hours worked;

11 G. Whether Defendants applied policies or practices that result in late and/or
12 incomplete final wage payments;

13 H. Whether Defendants are liable to class members for waiting time penalties
14 under Labor Code section 203;

15 I. Whether class members are entitled to restitution of money or property
16 that Defendants may have acquired from them through unfair competition.

17 17. **Typicality:** Plaintiff's claims are typical of the other class members' claims.
18 Plaintiff is informed and believes and thereon alleges that Defendants have a policy or practice
19 of failing to comply with the Labor Code and the Business and Professions Code as alleged
20 herein.

21 18. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
22 in that she has no interests that are adverse to, or otherwise conflict with, the interests of absent
23 class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff
24 will fairly and adequately represent and protect the interests of the other class members.

25 19. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in
26 that they have no known conflicts of interest with Plaintiff or absent class members, are
27 experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting
28 this action on behalf of Plaintiff and absent class members.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.