

FEB 08 2013

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12 *Attorneys for Plaintiff Thomas Vega,*  
13 *on behalf of himself and all others similarly*  
14 *situated*

15 SUPERIOR COURT OF CALIFORNIA

16 COUNTY OF SAN FRANCISCO

17 THOMAS VEGA, on behalf of himself and all  
18 others similarly situated,

19 Plaintiff,

20 vs.

21 SENSIENT DEHYDRATED FLAVORS, LLC  
22 f/k/a SENSIENT DEHYDRATED FLAVORS  
23 COMPANY, MICHAEL HAGOOD, and DOES  
24 1 through 100, INCLUSIVE,

25 Defendant.

No. CGC-13-527675

Unlimited Civil Case

The Amount Demanded Exceeds \$25,000

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

26 1. This class action lawsuit arises from ongoing wrongful conduct by Sensient  
27 Dehydrated Flavors, LLC f/k/a Sensient Dehydrated Flavors Company (hereinafter "Sensient")  
28 and Michael Hagood ("Hagood")(collectively, Defendants) by their unlawful failure to provide  
meal periods and wage statements in violation of Labor Code Sections 226, 226.7, 512, 558 and  
applicable Industrial Welfare Commission Orders.

2. Defendant Sensient is a Limited Liability Corporation doing business within the  
State of California.

3. Defendant Hagood is a manager employed by Sensient who is responsible for  
administering Sensient's policies and practices with respect to meal periods, such that Plaintiff,

1 class members, and aggrieved employees did not receive meal periods or compensation for work  
2 without meal periods in accordance with Labor Code sections 512 and 558 and provisions  
3 regulating the hours and days of work in the applicable Industrial Welfare Commission Wage  
4 Orders.

5 4. This action seeks relief for unremedied violations of California law, including, inter  
6 alia; damages, back wages, restitution, injunctive relief, penalties, interest, as appropriate, to  
7 members of the class, and to victims of the practices at issue, and who have not been provided  
8 meal periods in violation of Labor Code. Plaintiff is informed and believes that the damages,  
9 back-wages, restitution, value of injunctive relief sought, penalties, interest and attorneys' fees do  
10 not exceed a aggregate of \$4,999,999.99 and that Plaintiff's individual claims do not exceed  
11 \$74,999.99.

12 5. The names and capacities of defendants sued herein under California Code of Civil  
13 Procedure section 474 as Does 1 through 100, inclusive, are presently not known to Plaintiff, who  
14 therefore sues these Defendants by such fictitious names. Plaintiff will seek to amend this  
15 Complaint and include these Doe defendants' names and capacities when they are ascertained.  
16 Each of the fictitiously named defendants is responsible in some manner for the conduct alleged  
17 herein and for the injuries suffered by Plaintiff, the members of the class, aggrieved employees,  
18 and the general public.

19 6. Plaintiff Thomas Vega ("Plaintiff") on behalf of himself individually, and on behalf  
20 of class members and other aggrieved employees, hereby alleges that Defendants failed to provide  
21 meal periods, pay compensation for the absence of meal periods, and provide wage statements as  
22 required by law.

23 7. Plaintiff sues on behalf of himself and other class members and aggrieved  
24 employees who worked for Defendants in California. This action claims that Defendants violated  
25 the wage and hour provisions of California law by depriving Plaintiff, as well as class members  
26 and aggrieved employees, of meal periods, compensation for the lack of meal periods and wage  
27 statements.

28

1           8.     For at least four years prior to the filing of this complaint, Defendants willfully  
2 committed violations of California labor laws as alleged herein.

3           9.     Plaintiff, the class, and aggrieved employees suffered financial harm as their  
4 employer, Sensient, violated and continues to violate (i) multiple provisions of California's wage  
5 and hour laws, including California Labor Code sections 226.7, 512, 558; (ii) the Unfair  
6 Competition Law codified in California Business and Professions Code section 17200, et seq.; (iii)  
7 applicable Industrial Welfare Commission Wage Orders; and, (iv) the Labor Code Private  
8 Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, et seq.

9           10.    Plaintiff was employed by Sensient as an hourly employee within the four years  
10 preceding the filing of this complaint. At all times, Defendants required Plaintiff to work without  
11 meal periods as required by law.

12           11.    Sensient's policies regarding meal periods applied to Plaintiff, class members, and  
13 aggrieved employees such that all are due compensation for the failure to comply with the Labor  
14 Code.

15           12.    Sensient is, and at all relevant times was, an employer under applicable California  
16 Industrial Welfare Commission Orders.

17           13.    This action seeks relief on behalf of the following class of persons employed in  
18 California by Sensient for the four year period preceding the filing of this Complaint to the present  
19 ("the Class"): a) those paid on an hourly basis; and, b) fork lift operators.

20           14.    The Class is sufficiently numerous and geographically dispersed, the joinder of  
21 whom in one action is impracticable, such that the disposition of whose claims in a class action  
22 will provide substantial benefits to both the parties and the Court.

23           15.    There is a well-defined community of interest in the questions of law and fact  
24 involved affecting the parties to be represented. The questions of law and fact common to the  
25 Class predominate over questions that may affect individual class members, including but not  
26 limited to the following:

27                   (a)   Whether Sensient implemented and engaged in a practice whereby it  
28                           unlawfully failed to provide Plaintiff and class members meal periods,

1 failed to pay compensation for the lack of meal periods, and failed to  
2 provide pay statements as required by law.

3 (b) Whether the acts and practices of Sensient as alleged herein violated, inter  
4 alia, applicable provisions of the California Labor Code, including but not  
5 limited to sections 226, 226.7, 512, 558 and 2698, and applicable Industrial  
6 Welfare Commission Orders, and California Business & Professions Code  
7 section 17200, et seq.

8 16. Because Sensient required Plaintiff to work without meal periods, failed to pay  
9 Plaintiff for work without meal periods, and failed to provide Plaintiff with accurate wage  
10 statements, Plaintiff asserts claims in accord with those claims of the Class.

11 17. Plaintiff will fairly and adequately represent and protect the interests of the Class in  
12 that he has no disabling conflict of interest that would be antagonistic to those of the other  
13 members of the Class. Plaintiff has retained counsel who are competent and experienced in the  
14 prosecution of class action wage and hour violations.

15 18. Because Plaintiff and the members of the class all similarly suffered irreparable  
16 harm and damages as a result of Sensient's unlawful and wrongful conduct, class treatment is  
17 especially appropriate and this action will provide substantial benefits to both. Absent this action,  
18 Sensient's unlawful conduct will continue unremedied and uncorrected.

19 **FIRST CAUSE OF ACTION**

20 **(Against Defendant Sensient Only)**

21 **UNFAIR COMPETITION**  
22 **(BUS. & PROF. CODE §§ 17200-17208)**

23 19. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing  
24 paragraphs as if fully set forth herein.

25 20. Business & Professions Code section 17200, et seq., prohibits acts of unfair  
26 competition, defined as an "unlawful, unfair, or fraudulent business act or practice."

27 21. The policies, acts and practices heretofore described were and are unlawful  
28 business acts or practices because Sensient's failure to provide meal periods, failure to pay

1 compensation for work without meal periods, and failure to provide accurate wage statements  
2 violated numerous laws, including, but not limited to Labor Code sections, 226, 226.7, 512, 558,  
3 1174, and 1198, applicable Industrial Welfare Commission Wage Orders, the Labor Code Private  
4 Attorneys General Act of 2004, Labor Code section 2698 et seq., and other provisions of  
5 California common and/or statutory law. Plaintiff reserves the right to allege additional statutory  
6 and common law violations by Sensient. Such conduct is ongoing to this date.

7 22. Further, the policies, acts or practices described herein were and are an unfair  
8 business act or practice because any justifications for Sensient's illegal and wrongful conduct were  
9 and are vastly outweighed by the harm such conduct caused to Plaintiff, class members, aggrieved  
10 employees, and the members of the general public. Such conduct is ongoing to this date.

11 23. As a result of its unlawful and/or unfair and/or fraudulent acts, Sensient reaps and  
12 continues to reap unfair benefits and illegal profits at the expense of Plaintiff, class members, and  
13 aggrieved employees. Sensient should be made to disgorge ill-gotten gains and provide restitution  
14 to Plaintiff, class members, and aggrieved employees for the wrongfully withheld wages pursuant  
15 to Business and Professions Code section 17203.

16 24. Accordingly, Plaintiff and the Class respectfully request that the Court award  
17 judgment and relief in their favor, to provide restitution, and other types of equitable relief.

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19 **FOURTH CAUSE OF ACTION**  
20 **(Labor Code Private Attorneys General Act of 2004: Labor Code Sec. 2698**  
**(Against All Defendants)**

21 25. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing  
22 paragraphs as if fully set forth herein.

23 26. All Defendants are persons within the meaning of Labor Code sections 18 and  
24 2699(b).

25 27. Defendants Sensient and Hagood, either as Plaintiff's employer and/or as persons  
26 acting on behalf of Plaintiff's employer, violated, or caused to be violated, Labor Code section  
27 512, and provisions regulating the hours and days of work in the applicable Industrial Welfare  
28 Commission Wage Orders, as proscribed by Labor Code section 558. In addition, Defendant

1 Hagoood administered and/or authorized the practices alleged to have occurred herein, such that  
2 Plaintiff, class members, and aggrieved employees failed to receive meal periods and failed to  
3 receive compensation for work without meal periods, and failed to receive all overtime wages  
4 earned, in violation of Labor Code section 558. As such, all Defendants are liable for all civil  
5 penalties as provided by Labor Code section 558.

6 28. The policies, acts and practices heretofore described were and are unlawful acts in  
7 violation of applicable Labor Code sections and the applicable Industrial Welfare Commission  
8 Wage Orders and give rise to statutory penalties as a result of such conduct, including, but not  
9 limited to, penalties as provided by the Labor Code Private Attorneys General Act of 2004. The  
10 unlawful policies, acts and practices include, but are not limited to, Defendants' failure to maintain  
11 and provide accurate wage statements to employees as required by California Labor Code sections  
12 226 and 1174; and, Defendants' failure to provide meal periods and to pay compensation for work  
13 without meal periods to California employees in violation of California Labor Code sections 226.7  
14 and 512 and applicable Industrial Welfare Commission Orders. This conduct gives rise to  
15 statutory penalties, including but not limited to penalties as provided by Labor Code sections 226,  
16 226.3, 226.7, 510, 512, 558, 1174, 1198, and 2699.5, and applicable Industrial Welfare  
17 Commission Wage Orders. Plaintiff, as an aggrieved employee, hereby seeks recovery of civil  
18 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 on behalf of  
19 himself and other current and former employees of Defendants against whom one or more of the  
20 violations of the Labor Code was committed.

21 29. On December 27, 2012, Plaintiff gave written notice by certified mail to the  
22 California Labor and Workforce Development Agency ("LWDA") and Defendant Sensient of  
23 Labor Code violations as prescribed by California Labor Code section 2699.3. Plaintiff did not  
24 receive written notification of the LWDA's intent to investigate or a written notice of cure by  
25 January 29, 2013.

26 **PRAYER FOR RELIEF**

27 WHEREFORE Plaintiff prays for judgment and relief as follows:

- 28 1. An order certifying that the action may be maintained as a class action;

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2. Compensatory and statutory damages, penalties and restitution, as appropriate and available under each cause of action, in an amount to be proven at trial;
3. For recovery of penalties as provided by the Labor Code Private Attorneys General Act of 2004;
4. An order enjoining Sensient from pursuing the policies, acts, and practices complained of herein;
5. Costs of this suit;
6. Reasonable attorneys' fees pursuant to California Labor Code section 2699(g);
7. Pre- and post-judgment interest; and,
8. Plaintiff is informed and believes that the damages, back-wages, restitution, value

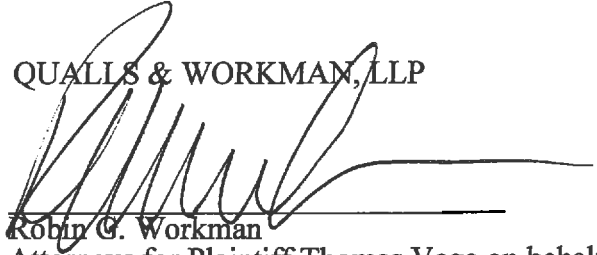
of injunctive relief sought, penalties, interest and attorneys' fees do not exceed a aggregate of \$4,999,999.99 and that Plaintiff's individual claims do not exceed \$74,999.99.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

Date: February 8, 2013

QUALLS & WORKMAN, LLP



Robin G. Workman  
Attorneys for Plaintiff Thomas Vega on behalf of  
himself and all other similarly situated