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on behalf of himself and all others similarly situated

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF KERN**

EMMANUEL SALGADO, on behalf of  
himself and all others similarly situated,

Plaintiffs,

v.

T-MOBILE USA, INC., a Delaware  
corporation; and DOES I to 100, inclusive,

Defendants.

Case No. BCV-17-100243

**CLASS ACTION**

**COMPLAINT FOR:**

1. **FAILURE TO PAY OVERTIME  
WAGES AT THE LEGAL  
OVERTIME PAY RATE;**
2. **FAILURE TO PAY ALL WAGES;**
3. **FAILURE TO AUTHORIZE AND  
PERMIT ALL PAID REST  
PERIODS;**
4. **FAILURE TO FULLY  
REIMBURSE WORK EXPENSES;**
5. **DERIVATIVE FAILURE TO  
TIMELY FURNISH ACCURATE  
ITEMIZED WAGE  
STATEMENTS;**
6. **DERIVATIVE VIOLATIONS OF  
LABOR CODE §203;**
7. **INDEPENDENT VIOLATIONS OF  
LABOR CODE §203;**
8. **PENALTIES PURSUANT TO  
LABOR CODE §2699; AND**
9. **UNFAIR BUSINESS PRACTICES**

**DEMAND FOR JURY TRIAL**

Plaintiff EMMANUEL SALGADO, an individual on behalf of himself and all others  
similarly situated (hereinafter collectively referred to as "Plaintiffs"), hereby files this Complaint

1 against Defendant T-MOBILE USA, INC. and DOES 1 to 100 (hereinafter collectively referred  
2 to as "Defendants"). Plaintiffs are informed and believe, and on the basis of that information and  
3 belief, allege as follows:

4 **I.**

5 **INTRODUCTION**

6 1. This is a civil action seeking recovery for Defendants' violations of the California  
7 Labor Code ("Labor Code") California Business and Professions Code ("B&PC"), the applicable  
8 Wage Orders issued by the California Industrial Welfare Commission (hereinafter, the "IWC  
9 Wage Orders") and related common law principles.

10 2. Plaintiffs' action seeks monetary damages, including full restitution from  
11 Defendants as a result of Defendants' unlawful, fraudulent and/or unfair business practices.

12 3. The acts complained of herein occurred, occur and will occur, at least in part,  
13 within the time period from four (4) years preceding the filing of the original Complaint herein,  
14 up to and through the time of trial for this matter although this should not automatically be  
15 considered the statute of limitations for any cause of action herein.

16 **RELEVANT JOB TITLES**

17 4. For introductory and general information only (and not to be considered a  
18 proposed class definition), the relevant job titles held by the California citizens in this action are  
19 Defendants' hourly-paid employees who were subjected to Defendants' policies and practices as  
20 described herein (hereafter, including but not limited to Sales Representatives, Sales Leads, Retail  
21 Associate Managers, Assistant Managers, and/or Store Managers). Any differences in job activities  
22 between the different individuals in these positions were and are legally insignificant to the  
23 issues presented by this action.

24 **SUMMARY OF CLAIMS**

- 25 5. With regard to Defendants' hourly-paid employees, Defendants have:
- 26 a. Failed to pay overtime wages at the appropriate overtime pay rate;
  - 27 b. Failed to pay straight time, minimum and/or overtime wages for all hours  
28 worked;

- c. Failed to authorize and permit all paid rest periods;
- d. Failed to reimburse for all work-related expenses;
- e. Failed to timely furnish accurate itemized wage statements;
- f. Derivatively violated Labor Code §203;
- g. Independently violated Labor Code §203;
- h. Incurred penalties pursuant to Labor Code §§2698, et seq.; and
- i. Conducted unfair business practices.

## II.

### PARTIES

#### PLAINTIFF EMMANUEL SALGADO

6. Plaintiff EMMANUEL SALGADO is an individual over the age of eighteen (18) and is now and/or at all times mentioned in this Complaint was a citizen of the State of California.

7. Plaintiff EMMANUEL SALGADO worked for Defendants as an hourly-paid Sales Representative and hourly-paid Retail Associate Manager (also known as Assistant Manager) from approximately November 2010 to August 10, 2016 in Bakersfield, California.

8. Plaintiff EMMANUEL SALGADO seeks recovery herein from Defendants because with regard to Plaintiff EMMANUEL SALGADO, while acting for Defendants in his capacity as an hourly-paid employee, Defendants have:

- a. Failed to pay overtime wages at the appropriate overtime pay rate;
- b. Failed to pay straight time, minimum and/or overtime wages for all hours worked;
- c. Failed to authorize and permit all paid rest periods;
- d. Failed to reimburse for all work-related expenses;
- e. Failed to timely furnish accurate itemized wage statements;
- f. Derivatively violated Labor Code §203;
- g. Independently violated Labor Code §203;
- h. Incurred penalties pursuant to Labor Code §§2698, et seq.; and
- i. Conducted unfair business practices.

1 DEFENDANT, T-MOBILE USA, INC.

2 9. Defendant T-MOBILE USA, INC. is now and/or at all times mentioned in this  
3 Complaint was a Delaware corporation and the owner and operator of an industry, business  
4 and/or facility licensed to do business and actually doing business in the State of California.

5 DOES 1 TO 100, INCLUSIVE

6 10. DOES 1 to 100, inclusive are now, and/or at all times mentioned in this  
7 Complaint were licensed to do business and/or actually doing business in California.

8 11. Plaintiffs do not know the true names or capacities, whether individual, partner or  
9 corporate, of DOES 1 to 100, inclusive and for that reason, DOES 1 to 100 are sued under such  
10 fictitious names pursuant to California Code of Civil Procedure ("CCP") §474.

11 12. Plaintiffs will seek leave of court to amend this Complaint to allege such names and  
12 capacities as soon as they are ascertained.

13 ALL DEFENDANTS

14 13. Defendants, and each of them, are now and/or at all times mentioned in this  
15 Complaint were in some manner legally responsible for the events, happenings and circumstances  
16 alleged in this Complaint.

17 14. Defendants, and each of them, proximately subjected Plaintiffs to the unlawful  
18 practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

19 15. Defendants, and each of them, are now and/or at all times mentioned in this  
20 Complaint were the agents, servants and/or employees of some or all other Defendants, and vice-  
21 versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all times  
22 mentioned in this Complaint were acting within the course and scope of that agency, servitude  
23 and/or employment.

24 16. Defendants, and each of them, are now and/or at all times mentioned in this  
25 Complaint were members of and/or engaged in a joint venture, partnership and common  
26 enterprise, and were acting within the course and scope of, and in pursuance of said joint  
27 venture, partnership and common enterprise.

28 17. Defendants, and each of them, at all times mentioned in this Complaint concurred

1 and contributed to the various acts and omissions of each and every one of the other Defendants  
2 in proximately causing the complaints, injuries and/or damages alleged in this Complaint.

3 18. Defendants, and each of them, at all times mentioned in this Complaint approved  
4 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in  
5 this Complaint.

6 19. Defendants, and each of them, at all times mentioned in this Complaint aided and  
7 abetted the acts and omissions of each and every one of the other Defendants thereby  
8 proximately causing the damages alleged in this Complaint.

9 **III.**

10 **JURISDICTION AND VENUE**

11 20. The California Superior Court has jurisdiction in this matter due to Defendants'  
12 aforementioned violations of California statutory law and/or related common law principles.

13 21. The California Superior Court also has jurisdiction in this matter because both the  
14 individual and aggregate monetary damages and restitution sought herein exceed the minimal  
15 jurisdictional limits of the Superior Court and will be established at trial, according to proof.

16 22. The California Superior Court also has jurisdiction in this matter because during  
17 their employment with Defendants, Plaintiff EMMANUEL SALGADO and the members of the  
18 putative Classes herein were all California citizens. Further, there is no federal question at issue, as  
19 the issues herein are based solely on California statutes and law.

20 23. Venue is proper in Kern County pursuant to CCP §395(a) and CCP §395.5 in that  
21 liability arose there because at least some of the transactions that are the subject matter of this  
22 Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts  
23 business, and/or has an agent therein.

24 **IV.**

25 **CLASS ACTION ALLEGATIONS**

26 24. CCP §382 provides in pertinent part: "...[W]hen the question is one of a common  
27 or general interest, of many persons, or when the parties are numerous, and it is impracticable to  
28 bring them all before the court, one or more may sue or defend for the benefit of all." Plaintiffs

1 bring this suit as a class action pursuant to CCP §382.

2 25. The putative classes Plaintiffs will seek to certify are currently composed of and  
3 defined as follows:

- 4 a. All California citizens employed by Defendants as hourly-paid employees (as  
5 defined, supra) during the appropriate time period who were subjected to  
6 Defendants' policies and practices regarding the calculation of overtime pay  
7 as specifically described herein (hereinafter, the "Overtime Rate Class");
- 8 b. All California citizens employed by Defendants as hourly-paid employees (as  
9 defined, supra) during the appropriate time period who were subjected to  
10 Defendants' policies and practices regarding the payment of straight time,  
11 minimum and/or overtime wages as specifically described herein (hereinafter,  
12 the "Wage Class");
- 13 c. All California citizens employed by Defendants as hourly-paid employees (as  
14 defined, supra) during the appropriate time period who were subjected to  
15 Defendants' policies and practices regarding paid rest periods as specifically  
16 described herein (hereinafter, the "Rest Period Class");
- 17 d. All California citizens employed by Defendants as hourly-paid employees (as  
18 defined, supra) during the appropriate time period who were subjected to  
19 Defendants' policies and practices regarding business expense reimbursement  
20 as specifically described herein (hereinafter, the "Reimbursements Class");
- 21 e. All California citizens employed by Defendants as hourly-paid employees (as  
22 defined, supra) during the appropriate time period who were subjected to  
23 Defendants' policies and practices regarding itemized wage statements as  
24 specifically described herein (hereinafter, the "Wage Statement Class");
- 25 f. All formerly-employed California citizens employed by Defendants as hourly-  
26 paid employees (as defined, supra) during the appropriate time period who  
27 were derivatively subjected to Defendants' policies and practices regarding  
28 Labor Code §203 and the payment of final wages as specifically described

herein (hereinafter, the "Derivative LC 203 Class"); and

- g. All formerly-employed California citizens employed by Defendants as hourly-paid employees (as defined, supra) during the appropriate time period who were independently subjected to Defendants' policies and practices regarding Labor Code §203 and the payment of final wages as specifically described herein (hereinafter, the "Independent LC 203 Class"); and
- h. All California citizens employed by Defendants as hourly-paid employees (as defined, supra) during the appropriate time period regarding whom Defendants have engaged in unlawful, unfair and/or fraudulent business acts or practices prohibited by B&PC §17200, et seq. as specifically described herein (hereinafter, the "17200 Class").

26. The Overtime Rate Class, Wage Class, Rest Period Class, Reimbursements Class, Wage Statement Class, Derivative LC 203 Class, Independent LC 203 Class and 17200 Class are herein collectively referred to as the "Classes."

27. Throughout discovery in this litigation, Plaintiffs may find it appropriate and/or necessary to amend the definition of the Classes. Plaintiffs will formally define and designate a class definition at such time when Plaintiffs seek to certify the Classes alleged herein.

28. Numerosity (CCP §382):

- a. The potential quantity of members of the Classes as defined is so numerous that joinder of all members is unfeasible and impractical;
- b. The disposition of the claims of the members of the Classes through this class action will benefit both the parties and this Court;
- c. The quantity of members of the Classes is unknown to Plaintiffs at this time; however, it is estimated that the membership of the Classes numbers greater than 100 individuals; and
- d. The quantity and identity of such membership is readily ascertainable via inspection of Defendants' records.

29. Superiority (CCP §382): The nature of this action and the nature of the laws

1 available to Plaintiffs make the use of the class action format particularly efficient and the  
2 appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein, as follows:

- 3 a. California has a public policy which encourages the use of the class action  
4 device;
- 5 b. By establishing a technique whereby the claims of many individuals can be  
6 resolved at the same time, the class suit both eliminates the possibility of  
7 repetitious litigation and provides small claimants with a method of obtaining  
8 redress for claims which would otherwise be too small to warrant individual  
9 litigation;
- 10 c. This case involves large corporate Defendants and a large number of  
11 individual Class members with many relatively small claims and common  
12 issues of law and fact;
- 13 d. If each individual member of the Classes was required to file an individual  
14 lawsuit, the large corporate Defendants would necessarily gain an  
15 unconscionable advantage because Defendants would be able to exploit and  
16 overwhelm the limited resources of each individual member of the Classes  
17 with Defendants' vastly superior financial and legal resources;
- 18 e. Requiring each individual member of the Classes to pursue an individual  
19 remedy would also discourage the assertion of lawful claims by the members  
20 of the Classes who would be disinclined to pursue an action against  
21 Defendants because of an appreciable and justifiable fear of retaliation and  
22 permanent damage to their lives, careers and well-being;
- 23 f. Proof of a common business practice or factual pattern, of which the members  
24 of the Classes experienced, is representative of the Classes herein and will  
25 establish the right of each of the members of the Classes to recover on the  
26 causes of action alleged herein;
- 27 g. Absent class treatment, the prosecution of separate actions by the individual  
28 members of the Classes, even if possible, would likely create:



- i) a substantial risk of each individual plaintiff presenting in separate, duplicative proceedings the same or essentially similar arguments and evidence, including expert testimony;
- ii) a multiplicity of trials conducted at enormous expense to both the judicial system and the litigants;
- iii) inconsistent or varying verdicts or adjudications with respect to the individual members of the Classes against Defendants;
- iv) potentially incompatible standards of conduct for Defendants; and
- v) potentially incompatible legal determinations with respect to individual members of the Classes which would, as a practical matter, be dispositive of the interest of the other members of the Classes who are not parties to the adjudications or which would substantially impair or impede the ability of the members of the Classes to protect their interests.
- h. The claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attendant thereto;
- i. Courts seeking to preserve efficiency and other benefits of class actions routinely fashion methods to manage any individual questions; and
- j. The Supreme Court of California urges trial courts, which have an obligation to consider the use of innovative procedural tools to certify a manageable class, to be procedurally innovative in managing class actions.

30. Well-defined Community of Interest: Plaintiffs also meet the established standards for class certification (see, e.g. Lockheed Martin Corp. v. Superior Court (2003) 29 Cal.4<sup>th</sup> 1096), as follows:

- a. Typicality: The claims of Plaintiff EMMANUEL SALGADO are typical of the claims of all members of the Classes he seeks to represent because all members of the Classes sustained injuries and damages arising out of

Defendants' common course of conduct in violation of law and the injuries and damages of all members of the Classes were caused by Defendants' wrongful conduct in violation of law, as alleged herein.

b. Adequacy: Plaintiff EMMANUEL SALGADO:

- i) is an adequate representative of the Classes he seeks to represent;
- ii) will fairly protect the interests of the members of the Classes;
- iii) has no interests antagonistic to the members of the Classes; and
- iv) will vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of this type.

c. Predominant Common Questions of Law or Fact: There are common questions of law and/or fact as to the members of the Classes which predominate over questions affecting only individual members of the Classes, including, without limitation:

- i) Whether Defendants paid all overtime wages owed to the members of the Overtime Rate Class at the appropriate overtime pay rate;
- ii) Whether Defendants paid the legal and appropriate straight time pay, minimum wage pay and/or overtime pay for all work hours to the members of the Wage Class;
- iii) Whether Defendants failed and continue to fail to authorize and permit paid rest periods to the members of the Rest Period Class in violation of the Labor Code and Section 12 of the IWC Wage Orders;
- iv) Whether Defendants failed to fully reimburse for all work-related expenses incurred by the members of the Reimbursements Class;
- v) Whether Defendants failed to timely furnish accurate, itemized and legal wage statements to the members of the Wage Statement Class;
- vi) Whether Defendants are derivatively liable pursuant to Labor Code §203 to the members of the Derivative LC 203 Class;
- vii) Whether Defendants are independently liable pursuant to Labor Code



1 behalf of the employee." See, e.g., 29 U.S.C. §207(3). The California Industrial Welfare  
2 Commission applies this standard for determining an employee's regular rate of pay for overtime  
3 calculation purposes.

4 35. Labor Code §§1194(a) states: "Notwithstanding any agreement to work for a  
5 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime  
6 compensation applicable to the employee is entitled to recover in a civil action the unpaid  
7 balance of the full amount of this minimum wage or overtime compensation, including interest  
8 thereon, reasonable attorney's fees, and costs of suit."

9 36. Defendants, as a matter of established company policy and procedure, at each and  
10 every one of the individual facilities owned and/or operated by Defendants, consistently:

- 11 a. Administered a uniform company policy and practice regarding the payment  
12 of wages, including overtime and bonuses, to the members of the Overtime  
13 Rate Class;
- 14 b. Scheduled and/or required the members of the Overtime Rate Class to work in  
15 excess of eight (8) hours per workday and/or in excess of forty (40) hours per  
16 workweek;
- 17 c. Paid the members of the Overtime Rate Class nondiscretionary commissions  
18 based on sales and other earnings, including but not limited to "Com Currnt  
19 Mo" payments;
- 20 d. Also paid the members of the Overtime Rate Class in the form of  
21 nondiscretionary prizes and/or manufacturers' products as compensation;
- 22 e. Failed to pay the members of the Overtime Rate Class for all work  
23 accomplished in excess of forty (40) hours per week at the appropriate  
24 overtime rate, reflecting all applicable forms of remuneration, including but  
25 not limited to said commissions and prizes, as required by law.

26 37. Defendants' pattern, practice and uniform administration of corporate policy  
27 regarding illegal employee compensation as described herein is unlawful and creates an  
28 entitlement, pursuant to Labor Code §218 and Labor Code §1194(a), to recovery by the members

1 of the Overtime Rate Class, in a civil action, for the unpaid balance of the full amount of the  
2 overtime premiums owing.

3 38. That calculation of individual damages for the members of the Overtime Rate  
4 Class may at some point be required does not foreclose the possibility of taking common  
5 evidence on questions regarding their entitlement to overtime compensation (see, e.g. Collins v.  
6 Rocha (1972) 7 Cal.3d 232; Hypolite v. Carleson (1975) 52 Cal.App.3d 566; Employment  
7 Development Dept. v. Superior Court (1981) 30 Cal.3d 256).

8 39. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the  
9 members of the Overtime Rate Class seek recovery of pre-judgment interest on all amounts  
10 recovered herein.

11 40. Pursuant to Labor Code §218.5 and/or Labor Code §1194, the members of the  
12 Overtime Rate Class request that the Court award reasonable attorneys' fees and costs incurred  
13 by them in this action.

14 **SECOND CAUSE OF ACTION**  
15 **FAILURE TO PAY ALL WAGES**  
16 **(On Behalf of the Wage Class)**  
17 **(Against All Defendants)**

18 41. Plaintiffs incorporate by reference and reallege each and every one of the  
19 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set  
20 forth herein.

21 42. Labor Code §510(a) states in pertinent part: "Any work in excess of eight hours in  
22 one workday and any work in excess of 40 hours in any one workweek ... shall be compensated  
23 at the rate of no less than one and one-half times the regular rate of pay for any employee."

24 43. Labor Code §1182.12, effective July 1, 2014, states: "Notwithstanding any other  
25 provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not  
26 less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all  
27 industries shall be not less than ten dollars (\$10) per hour." Further, pursuant to Labor Code  
28 §1182.12(b)(1)(A), for any employer who employs 26 or more employees, the minimum wage

1 shall be as follows: "From January 1, 2017, to December 31, 2017, inclusive, - ten dollars and  
2 fifty cents (\$10.50) per hour."

3 44. Labor Code §§1194(a) states: "Notwithstanding any agreement to work for a  
4 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime  
5 compensation applicable to the employee is entitled to recover in a civil action the unpaid  
6 balance of the full amount of this minimum wage or overtime compensation, including interest  
7 thereon, reasonable attorney's fees, and costs of suit."

8 45. Further, pursuant to Labor Code §1197, payment of less than the minimum wage  
9 fixed by the Labor Commission is unlawful.

10 46. Pursuant to Labor Code §1198, it is unlawful to employ persons for longer than  
11 the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC  
12 Wage Order(s).

13 47. Pursuant to the IWC Wage Order(s), Defendants are required to pay the members  
14 of the Wage Class for all hours worked, meaning the time during which an employee is subject  
15 to the control of an employer, including all the time the employee is suffered or permitted to  
16 work, whether or not required to do so.

17 48. Defendants, as a matter of established company policy and procedure, at each and  
18 every one of the individual facilities owned and/or operated by Defendants, consistently:

- 19 a. Administered a uniform company policy and practice as to the pay policies  
20 regarding the members of the Wage Class;  
21 b. Failed to pay the members of the Wage Class for all work, including but not  
22 limited to such tasks as responding to GroupMe texts, scheduling, picking up  
23 devices, making telephone calls, performing overrides/cxchanges, submitting  
24 reports, management calls, and/or Small Business Prep, and as such,  
25 c. Scheduled to work and/or required the members of the Wage Class to work  
26 without paying for all time they were under Defendants' control.

27 49. Because Defendants required the members of the Wage Class to remain under  
28 Defendants' control without paying therefore, this resulted in the members of the Wage Class

1 earning less than the legal minimum wage in the State of California.

2 50. Defendants' pattern, practice and uniform administration of corporate policy  
3 regarding illegal employee compensation as described herein is unlawful and creates an  
4 entitlement, pursuant to Labor Code §218, to recovery by Plaintiffs and the members of the  
5 Wage Class, in a civil action, of the unpaid balance of the full amount of wages owing,  
6 calculated at the appropriate rate.

7 51. Further, Defendants' pattern and practice in uniform administration of corporate  
8 policy regarding Defendants' failure to pay the legal minimum wage to the members of the  
9 Wage Class as described herein is unlawful and creates entitlement, pursuant to Labor Code  
10 §1194(a), to recovery by the members of the Wage Class, in a civil action, for the unpaid balance  
11 of the full amount of the unpaid minimum wages owed, calculated as the difference between the  
12 straight time compensation paid and the applicable minimum wage, including interest thereon.

13 52. Pursuant to Labor Code §1194.2(a) (which provides that in any action under  
14 Labor Code §1194, an employee shall be entitled to recover liquidated damages), the members of  
15 the Wage Class seek recovery of liquidated damages on the straight-time portion of  
16 uncompensated hours of work (not including the overtime portion thereof) in an amount equal to  
17 the wages unlawfully unpaid and interest thereon.

18 53. That calculation of individual damages for the members of the Wage Class may at  
19 some point be required does not foreclose the possibility of taking common evidence on  
20 questions regarding their entitlement to overtime compensation (see, e.g. Collins v. Rocha (1972)  
21 7 Cal.3d 232; Hypolite v. Carleson (1975) 52 Cal.App.3d 566; Employment Development Dept.  
22 v. Superior Court (1981) 30 Cal.3d 256).

23 54. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the  
24 members of the Wage Class seek recovery of pre-judgment interest on all amounts recovered  
25 herein.

26 55. Pursuant to Labor Code §218.5 and/or Labor Code §1194, the members of the  
27 Wage Class request that the Court award reasonable attorneys' fees and costs incurred by them  
28 in this action.

**THIRD CAUSE OF ACTION**  
**FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS**  
**(On Behalf of the Rest Period Class)**  
**(Against All Defendants)**

56. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

57. Labor Code §226.7(b) provides that "An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."

58. Labor Code §516 provides that the Industrial Welfare Commission "may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers."

59. Section 12(A) of the IWC Wage Order(s) states: "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages."

60. Section 12(B) of the IWC Wage Order(s) states: "If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

61. The members of the Rest Period Class sometimes worked over four (4) hours per shift and therefore were entitled to a rest period of not less than ten (10) minutes prior to exceeding four (4) hours of employment.



62. As a matter of Defendants' established company policy, Defendants failed to always authorize and permit the required rest periods established by Labor Code §226.7 and Labor Code §516 and Section 12 of the IWC Wage Order(s).

63. Pursuant to Section 12 of the IWC Wage Order(s) and Labor Code §226.7(b) which states "if an employer fails to provide an employee a meal or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided," the members of the Rest Period Class are entitled to damages in an amount equal to one (1) additional hour of pay at each employee's regular rate of compensation for each work day that the rest period was not so provided.

64. Pursuant to Labor Code §218.6 and CC §3287, the members of the Rest Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

65. Pursuant to Labor Code §218.5, the members of the Rest Period Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

#### FOURTH CAUSE OF ACTION

#### FAILURE TO FULLY REIMBURSE WORK EXPENSES

(On Behalf of the Reimbursements Class)

(Against All Defendants)

66. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

67. Pursuant to Labor Code §450(a), "no employer...may compel or coerce any employee... to patronize his or her employer, or any other person, in the purchase of any thing of value."

68. Pursuant to Labor Code §2802(a), "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

1           69.    Labor Code §2804 states in pertinent part: "Any contract or agreement, express or  
2 implied, made by any employee to waive the benefits of this article or any part thereof is null and  
3 void, and this article shall not deprive any employee or his personal representative of any right or  
4 remedy to which he is entitled under the laws of this State."

5           70.    As a matter of Defendants' established company policy, the members of the  
6 Reimbursements Class were and are required by Defendants to personally incur necessary  
7 expenditures in direct consequence of the discharge of their duties, including but not limited to  
8 mileage-related expenses for such work-related tasks as driving between stores, making bank  
9 runs, and/or attending special events as part of Defendants' "Retail Reach Out" program.

10          71.    Defendants are legally required to reimburse the members of the Reimbursements  
11 Class for all necessary expenditures at a reasonable rate.

12          72.    Defendants failed to fully and reasonably reimburse the members of the  
13 Reimbursements Class for all necessary expenditures at a reasonable rate, including but not  
14 limited to the aforementioned expenditures.

15          73.    As a proximate result of the aforementioned violations of Labor Code §450(a) and  
16 §2802(a), the members of the Reimbursements Class are entitled to recovery from Defendants of  
17 the unpaid balance for all necessary expenditures at a reasonable rate, including but not limited  
18 to the aforementioned expenditures.

19          74.    As a proximate result of the aforementioned violations of Labor Code §450(a) and  
20 §2802(a), the members of the Reimbursements Class have been damaged in an amount according  
21 to proof at the time of Trial.

22          75.    Pursuant to Labor Code §2802(b), the members of the Reimbursements Class  
23 request that the Court award interest at the same rate as judgments in civil actions, accruing from  
24 the date on which each member of the Reimbursements Class incurred the necessary expenditure  
25 or loss.

26          76.    Pursuant to Labor Code §2802(c), the members of the Reimbursements Class  
27 request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

28 ///

**FIFTH CAUSE OF ACTION**  
**FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**  
**(On Behalf of the Wage Statement Class)**  
**(Against All Defendants)**

77. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

78. Labor Code §226(a) states in pertinent part: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid... (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....".

79. Further, the IWC Wage Orders §7(A) states in pertinent part: "(A) Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rates of pay...."

80. Therefore, pursuant to Labor Code §226(a) and the IWC Wage Orders §7(A), California employers are required to maintain accurate records pertaining to the total hours worked for Defendants by the members of the Wage Statement Class, including but not limited to, beginning and ending of each work period, meal period and split shift interval, the total daily hours worked, and the total hours worked per pay period and applicable rates of pay.

81. As a pattern and practice, in violation of Labor Code §226(a) and the IWC Wage Orders §7(A), Defendants did not and still do not furnish each of the members of the Wage

1 Statement Class with an accurate itemized statement in writing showing (1) gross wages earned,  
2 (2) total hours worked by the employee, (3) all deductions, (4) net wages earned and/or (5) all  
3 applicable hourly rates in effect during each respective pay period and the corresponding number  
4 of hours worked at each hourly rate by each respective individual.

5 82. As a pattern and practice, in violation of Labor Code §226(a) and the IWC Wage  
6 Orders §7(A), Defendants did not and do not maintain accurate records pertaining to the total  
7 hours worked for Defendants by the members of the Wage Statement Class, including but not  
8 limited to, beginning and ending of each work period, meal period and split shift interval, the  
9 total daily hours worked, and the total hours worked per pay period and applicable rates of pay.

10 83. As of January 1, 2013, SB 1255 amended Labor Code §226 to clarify that an  
11 employee suffers injury if the employer fails to provide accurate and complete information as  
12 required by any one or more items listed in Labor Code §226(a)(1)-(9) and the employee cannot  
13 promptly and easily ascertain requisite information without reference to other documents or  
14 information.

15 84. Here, the members of Wage Statement Class suffered injury because Defendants  
16 failed to provide accurate and complete information as required by one or more items listed in  
17 Labor Code §226(a)(1)-(9) and the Wage Statement Class members could not and cannot  
18 promptly and easily ascertain requisite information without reference to other documents or  
19 information.

20 85. In addition, the members of the Wage Statement Class have suffered injury as a  
21 result of Defendants' failure to maintain accurate records for the members of the Wage  
22 Statement Class in that the members of the Wage Statement Class were not timely provided  
23 written accurate itemized statements showing all requisite information, including but not limited  
24 to total hours worked by the employee, net wages earned and all applicable hourly rates in effect  
25 during the pay period and the corresponding number of hours worked at each hourly rate, in  
26 violation of Labor Code §226 and the IWC Wage Orders §7(A), such that the members of the  
27 Wage Statement Class were misled by Defendants as to the correct information regarding  
28 various items, including but not limited to total hours worked by the employee, net wages earned

and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

86. The actual injuries suffered by the members of the Wage Statement Class as a result of Defendants' knowing and intentional failure to maintain accurate records for the members of the Wage Statement Class include but are not limited to:

- a. Confusion over whether they received all wages owed them by Defendants;
- b. The difficulty and expense of attempting to reconstruct time and pay records;
- c. Being forced to engage in mathematical computations to analyze whether Defendants' wages in fact compensated for all hours worked;
- d. The inability to accurately calculate wage rates complicated by the fact that wage statement information required by Labor Code §226 is missing;
- e. That such practice prevents the members of the Wage Statement Class from being able to effectively challenge information on their wage statements; and/or
- f. The difficulty and expense of filing and maintaining this lawsuit, and the discovery required to collect and analyze the very information that California law requires.

87. Pursuant to Labor Code §226(e), the members of the Wage Statement Class are entitled to fifty dollars (\$50.00) per employee for the initial pay period in which a violation hereunder occurs and one hundred dollars (\$100.00) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000.00).

88. Pursuant to Labor Code §226(g), the currently-employed members of the Wage Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor Code §226.

89. Pursuant to Labor Code §226(e) and/or §226(g), the members of the Wage Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

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**SIXTH CAUSE OF ACTION**  
**DERIVATIVE VIOLATIONS OF LABOR CODE §203**  
**(On Behalf of the Derivative LC 203 Class)**  
**(Against All Defendants)**

90. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

91. Labor Code §203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code §§201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to thirty (30) days from the due date thereof, until paid or until an action therefore is commenced.

92. The members of the Derivative LC 203 Class are no longer employed by Defendants as they were either discharged from or quit Defendants' employ.

93. Defendants had a consistent and uniform policy, practice and procedure of willfully failing to pay the earned wages of Defendants' former employees, as set forth above, according to amendment or proof.

94. As set forth above, Defendants willfully failed to pay the members of the Derivative LC 203 Class their entire wages due and owing at the time of their termination or within seventy-two (72) hours of their resignation, and failed to pay those sums for up to thirty (30) days thereafter.

95. Defendants' willful failure to pay wages to the members of the Derivative LC 203 Class violates Labor Code §203 because Defendants knew or should have known wages were due to the members of the Derivative LC 203 Class, as set forth above, but Defendants failed to pay them.

96. Thus, the members of the Derivative LC 203 Class are entitled to recovery pursuant to Labor Code §203.

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**SEVENTH CAUSE OF ACTION**  
**INDEPENDENT VIOLATIONS OF LABOR CODE §203**  
**(On Behalf of the Independent LC 203 Class)**  
**(Against All Defendants)**

97. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

98. Labor Code §203 provides that if an employer willfully fails to timely pay, without abatement or reduction, in accordance with Labor Code §§201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to thirty (30) days from the due date thereof, until paid or until an action therefore is commenced.

99. The members of the Independent LC 203 Class are no longer employed by Defendants as they were either discharged from or quit Defendants' employ.

100. Defendants had a consistent and uniform policy, practice and procedure of willfully failing to timely pay the earned wages of Defendants' former employees, including vacation wages, according to amendment or proof.

101. For example, Plaintiff, EMMANUEL SALGADO was terminated on August 10, 2016. However, Plaintiff was not paid final wages, including final commissions, until September 30, 2016.

102. As such, Defendants willfully failed to pay the members of the Independent LC 203 Class all wages due and owing at the time of their termination and/or within seventy-two (72) hours of their resignation.

103. Defendants' willful failure to timely pay final wages to the members of the Independent LC 203 Class violates Labor Code §203 because Defendants knew or should have known final wages were due to the members of the Independent LC 203 Class by a date certain, but Defendants failed to pay them on a timely basis on or before that deadline.

104. Thus, the members of the Independent LC 203 Class are entitled to recovery

1 pursuant to Labor Code §203.

2 **EIGHTH CAUSE OF ACTION**  
3 **PENALTIES PURSUANT TO LABOR CODE §2699**  
4 **(On Behalf of the Aggrieved Employees)**  
5 **(Against All Defendants)**

6 105. Plaintiffs incorporate by reference and reallege each and every one of the  
7 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set  
8 forth herein.

9 106. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor  
10 Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce  
11 Development Agency ("LWDA") (or any of its departments, divisions, commissions, board  
12 agencies or employees), such civil penalties may, as an alternative, be recovered through a civil  
13 action brought by an aggrieved employee on behalf of himself or herself and other current or  
14 former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of  
15 all Labor Code provisions except those for which a civil penalty is specifically provided), the  
16 members of all Classes seek recovery of all applicable civil penalties, as follows:

- 17 a. As applicable, civil penalties under Labor Code §558 (in addition to and  
18 entirely independent and apart from any other penalty provided in the Labor  
19 Code), for violations of Labor Code §§1-556, in the amount of \$50 for each  
20 underpaid aggrieved employee for each pay period the aggrieved employee  
21 was underpaid in addition to an amount sufficient to recover underpaid wages,  
22 and \$100 for each subsequent violation for each underpaid employee for each  
23 pay period for which the employee was underpaid in addition to an amount  
24 sufficient to recover underpaid wages, with all wages recovered pursuant to  
25 Labor Code §558 provided to the aggrieved employees;
- 26 b. As applicable, civil penalties under Labor Code §2751, which states:  
27 "Whenever an employer enters into a contract of employment with an  
28 employee for services to be rendered within this state and the contemplated



1 method of payment of the employee involves commissions, the contract shall  
2 be in writing and shall set forth the method by which the commissions shall be  
3 computed and paid." Further, Labor Code §2751(b) states in pertinent part:  
4 "The employer shall give a signed copy of the contract to every employee  
5 who is a party thereto and shall obtain a signed receipt for the contract from  
6 each employee." During the relevant time period, Defendants had a consistent  
7 and uniform policy, practice and procedure, when entering into a contract of  
8 employment with the aggrieved employees for services to be rendered within  
9 California, with the contemplated method of payment involving commissions,  
10 of failing to utilize a written contract setting forth the method by which the  
11 commissions shall be computed and paid. Defendants' pattern, practice and  
12 uniform administration of corporate policy regarding commission contracts as  
13 described herein is unlawful and creates an entitlement to recovery by the  
14 aggrieved employees of penalties pursuant to Labor Code §§2698, et seq.  
15 Further, Plaintiffs are entitled to recover reasonable attorneys' fees and costs  
16 pursuant to Labor Code §2699(g)(1), Labor Code §218.5, and/or any other  
17 applicable statute;

- 18 c. As applicable, civil penalties under Labor Code §226.3 (in addition to and  
19 entirely independent and apart from any other penalty provided in the Labor  
20 Code), for each violation of Labor Code §226(a), in the amount of \$250 for  
21 each aggrieved employee per pay period for each violation and \$1,000 for  
22 each aggrieved employee per pay period for each subsequent violation;
- 23 d. As applicable, civil penalties under Labor Code §256 (in addition to and  
24 entirely independent and apart from any other penalty provided in the Labor  
25 Code), for any aggrieved employee who was discharged or quit, and was not  
26 paid all earned wages at termination in accordance with Labor Code §§201,  
27 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of  
28 pay, at the same rate, for each day that he or she was paid late, until payment

was/is made, up to a maximum of thirty (30) days;

e. As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code except for those for which a civil penalty is specifically provided, in the amount of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation; and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and

f. Any and all additional applicable civil penalties and sums as provided by the Labor Code and/or other relevant statutes.

107. In addition, Plaintiffs seek and are entitled to seventy-five percent (75%) of all penalties obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%) to all aggrieved employees.

108. Further, Plaintiffs are entitled to recover reasonable attorneys' fees and costs pursuant to Labor Code §§2699(g)(1), 218.5 (Wages), 1194(a), and any other applicable statute.

109. Labor Code §2699.3(a) states in pertinent part: "A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section 2699.5 shall commence only after the following requirements have been met: (1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation."

110. Labor Code §2699.3(c)(1) states in pertinent part: "A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) shall commence only after the following requirements have been met: (1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions

1 of this code alleged to have been violated, including the facts and theories to support the alleged  
2 violation.”

3 111. Here, Plaintiffs’ civil action alleges violations of provisions listed in Labor Code  
4 §2699.5 and violations of provisions other than those listed in Labor Code §2699.5. As such,  
5 Labor Code §2699.3(a) and §2699.3(c) apply to this action.

6 112. On November 4, 2016, Plaintiffs complied with Labor Code §2699.3(a) and  
7 Labor Code §2699.3(c) in that Plaintiffs gave written notice by online filing with the LWDA and  
8 by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been  
9 violated, including the facts and theories to support the alleged violations. Attached hereto as  
10 Exhibit “1” is Plaintiffs’ LWDA letter.

11 113. Labor Code §2699.3(a) further states in pertinent part: “(2)(A) The agency shall  
12 notify the employer and the aggrieved employee or representative by certified mail that it does  
13 not intend to investigate the alleged violation within 60 calendar days of the postmark date of the  
14 notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided  
15 within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the  
16 aggrieved employee may commence a civil action pursuant to Section 2699.”

17 114. As of January 8, 2017 (65 calendar days after Plaintiffs’ LWDA letter was filed  
18 online), Plaintiffs had not received any notification that the LWDA intended to investigate the  
19 alleged violations. As such, Plaintiffs have complied with Labor Code §2699.3(a) and have been  
20 given authorization therefrom to commence a civil action which includes a cause of action  
21 pursuant to Labor Code §2699.

22 115. Further, as of December 11, 2016 (33 calendar days after Plaintiffs’ LWDA letter  
23 was mailed via certified mail), Plaintiffs have not received from Defendants written notice by  
24 certified mail that the alleged violations have been cured, including a description of actions  
25 taken. As such, Plaintiffs have complied with Labor Code §2699.3(c) and have been given  
26 authorization therefrom to commence a civil action which includes a cause of action pursuant to  
27 Labor Code §2699.

28 ///

**NINTH CAUSE OF ACTION**  
**UNFAIR BUSINESS PRACTICES**  
**(On Behalf of the 17200 Class)**  
**(Against All Defendants)**

116. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

117. B&PC §17200 provides in pertinent part "...[U]nfair competition shall mean and include any unlawful, unfair or fraudulent business act...".

118. B&PC §17205 provides that unless otherwise expressly provided, the remedies or penalties provided for unfair competition "are cumulative to each other and to the remedies or penalties available under all other laws of this state."

119. B&PC §17204 provides that an action for any relief from unfair competition may be prosecuted by any person who has suffered injury in fact and has lost money or property as a result of such unfair competition.

120. Defendants have engaged in unlawful, unfair and fraudulent business acts or practices prohibited by B&PC §17200, including those set forth in the preceding and foregoing paragraphs of the complaint, thereby depriving the members of the 17200 Class of the minimum working standards and conditions due to them under the Labor Code and/or the IWC Wage Orders, as specifically described herein.

121. Defendants have engaged in unfair business practices in California by practicing, employing and utilizing the employment practices outlined in the preceding paragraphs, specifically, by requiring employees to perform the labor services complained of herein without the requisite compensation.

122. Defendants' use of such practices constitutes an unfair business practice, unfair competition and provides an unfair advantage over Defendants' competitors.

123. Plaintiffs have suffered injury in fact and have lost money or property as a result of such unfair competition.

1 124. Plaintiffs seek full restitution from Defendants, as necessary and according to  
2 proof, to restore any and all monies withheld, acquired and/or converted by Defendants by means  
3 of the unfair practices complained of herein.

4 125. Further, if Defendants are not enjoined from the conduct set forth above,  
5 Defendants will continue to practice, employ and utilize the employment practices outlined in the  
6 preceding paragraphs.

7 126. Therefore, Plaintiffs request that the Court issue a preliminary and permanent  
8 injunction prohibiting Defendants from engaging in the foregoing conduct.

9 127. Plaintiffs seek the appointment of a receiver, as necessary, to establish the total  
10 monetary relief sought from Defendants.

11 **VI.**

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray:

- 14 a. That the Court issue an Order certifying the Classes herein, appointing all named  
15 Plaintiffs as representative of all others similarly situated, and appointing all law  
16 firms representing all named Plaintiffs as counsel for the members of the Classes;

17 As to the First Cause of Action for Failure to Pay Overtime Wages at the Appropriate Overtime  
18 Pay Rate:

- 19 b. For damages, as set forth in Labor Code §1194(a) and the IWC Wage Order(s)  
20 regarding wages due and owing, according to proof;  
21 c. For pre-judgment interest as allowed by Labor Code §218.6, Labor Code §1194(a)  
22 and CC §3287;  
23 d. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §218.5  
24 and/or Labor Code §1194(a);

25 As to the Second Cause of Action for Failure to Pay All Wages:

- 26 e. For recovery of the unpaid balance of the full amount of the straight time  
27 compensation due and owing, according to proof;  
28 f. For liquidated damages on the straight-time portion of uncompensated hours of work

- (not including the overtime portion thereof), as authorized by Labor Code §1194.2(a);
- g. For recovery of the unpaid balance of the full amount of overtime compensation due and owing, calculated at the appropriate rate and according to proof;
- h. For pre-judgment interest as allowed by Labor Code §218.6, Labor Code §1194(a) and CC §3287;
- i. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §218.5 and/or Labor Code §1194(a);

As to the Third Cause of Action for Failure to Authorize and Permit Paid Rest Periods:

- j. For one (1) hour of pay at the regular rate of compensation for each member of the Rest Period Class for each workday that a meal or rest period was not provided;
- k. For pre-judgment interest as authorized by Labor Code §218.6 and CC §3287;
- l. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §218.5;

As to the Fourth Cause of Action for Unpaid Reimbursements for Work Expenses:

- m. For recovery of the unpaid balance for all necessary expenditures and losses incurred in direct consequence of the discharge of Defendants' duties;
- n. For interest thereon at the same rate as judgments in civil actions, accruing from the date on which each member of the Reimbursements Class incurred the necessary expenditure or loss, pursuant to Labor Code §2802(b);
- o. For reasonable attorneys' fees and costs pursuant to Labor Code §2802(c);

As to the Fifth Cause of Action for Failure to Timely Furnish Accurate Itemized Wage

Statements:

- p. For recovery as authorized by Labor Code §226(e);
- q. For an award of costs and reasonable attorneys' fees pursuant to Labor Code §226(e) and/or §226(g);

As to the Sixth Cause of Action for Failure to Timely Furnish Accurate Itemized Wage

Statements:

- r. For recovery as authorized by Labor Code §226(e);
- s. For an award of costs and reasonable attorneys' fees pursuant to Labor Code §226(e)

1 and/or §226(g);

2 As to the Seventh Cause of Action for Derivative Violations of Labor Code §203:

3 t. For recovery as authorized by Labor Code §203;

4 As to the Eighth Cause of Action for Independent Violations of Labor Code §203:

5 u. For recovery as authorized by Labor Code §203;

6 As to the Ninth Cause of Action for Penalties Pursuant to Labor Code §2699:

7 v. For civil penalties pursuant to Labor Code §2699(f), in addition to and entirely  
8 independent and apart from other penalties in the Labor Code and for Labor Code  
9 violations without a specific civil penalty, in the amount of \$100 for each aggrieved  
10 employee per pay period for each violation, and \$200 for each aggrieved employee  
11 per pay period for each subsequent violation;

12 w. For civil penalties pursuant to Labor Code §558, in addition to and entirely  
13 independent and apart from other penalties in the Labor Code, as follows:

- 14 i. For any initial violation, fifty dollars (\$50) for each aggrieved underpaid  
15 employee for each pay period for which the employee was underpaid in  
16 addition to an amount which is sufficient to recover unpaid wages;  
17 ii. For each subsequent violation, one hundred dollars (\$100) for each aggrieved  
18 underpaid employee for each pay period for which the employee was  
19 underpaid in addition to an amount which is sufficient to recover unpaid  
20 wages; and

21 iii. For all unpaid wages, to be paid to the aggrieved employees;

22 x. For civil penalties under Labor Code §210, in addition to and entirely independent  
23 and apart from other penalties in the Labor Code, in the amount of \$100 for each  
24 aggrieved employee per pay period for each violation, and \$200 for each aggrieved  
25 employee per pay period for each subsequent violation, plus 25% of the wages  
26 wrongly withheld;  
27 y. For civil penalties per Labor Code §226.3, in addition to and entirely independent and  
28 apart from other penalties in the Labor Code, in the amount of \$250 for each

- 1 aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved  
2 employee per pay period for each subsequent violation;
- 3 z. For civil penalties per Labor Code §256, in addition to and entirely independent and  
4 apart from other penalties in the Labor Code, in the amount of one day of pay, at the  
5 same rate, for each day that an aggrieved employee was paid late, at the time of  
6 termination, until payment was/is made, up to a maximum of thirty (30) days;
- 7 aa. For reasonable attorneys' fees and costs incurred pursuant to Labor Code  
8 §§2699(g)(1) and any other applicable statute;

9 As to the Tenth Cause of Action for Unfair Business Practices:

- 10 bb. For an accounting, under administration of Plaintiffs and/or the receiver and subject  
11 to Court review, to determine the amount to be returned by Defendants, and the  
12 amounts to be refunded to members of the Classes who are owed monies by  
13 Defendants;
- 14 cc. For an Order requiring Defendants to identify each of the members of the Classes by  
15 name, home address, home telephone number and, if available, email address;
- 16 dd. For an Order requiring Defendants to make full restitution and payment pursuant to  
17 California law;
- 18 ee. For an Order for a preliminary and/or permanent injunction prohibiting Defendants  
19 from engaging in the acts complained of herein;
- 20 ff. For the creation of an administrative process wherein each injured member of the  
21 Classes may submit a claim in order to receive his/her money;
- 22 gg. For interest to the extent permitted by law;
- 23 hh. For an award of attorneys' fees and costs incurred in the investigation, filing and  
24 prosecution of this action pursuant to CCP §1021.5, B&PC §17200, et seq., Labor  
25 Code §1194 and/or any other applicable provision of law;

26 As to All Causes of Action:

- 27 ii. For such relief as this Court may deem just and proper, including reasonable  
28 attorneys' fees and costs incurred.



VII.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

Dated: February 3, 2017

LAW OFFICES OF KEVIN T. BARNES

By:



Kevin T. Barnes, Esq.

Gregg Lander, Esq.

Attorneys for Plaintiffs