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ENDORSED
FILED
ALAMEDA COUNTY

APR 17 2009
CLERK OF THE SUPERIOR COURT
By Y. Singh Deputy

Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

ANTONIO OCHOA,

NO. *RG09447627*

CLASS ACTION

Plaintiff,

COMPLAINT

vs.

LACO, Inc. and DOES 1 through 50
inclusive,

1. Failure to pay minimum wage
2. Failure to Pay Overtime Compensation
3. Violation of B & P § 17200, et seq.
4. Failure to Make Payments Within the Required Time

Defendants.

///

1.

1 COMES NOW, Plaintiff, individuals over the age of eighteen (18), and bring this
2 challenge to defendant's lucrative, repressive and unlawful business practices on behalf of
3 themselves and a class of all others similarly situated and for a Cause of Action against
4 defendants, LACO, Inc. and DOES 1-50, inclusive, (hereinafter defendants) and each of them,
5 alleges as follows:

6 **THE PARTIES, JURISDICTION AND VENUE**

7 2.

8 This class action is brought pursuant to §382 of the California Code of Civil
9 Procedure. The claims of individual class members, including Plaintiff, are under the \$75,000
10 jurisdictional threshold for federal court. For example, a class member who was or has been
11 employed for a relatively brief period could never reasonably be expected to receive a
12 recovery of \$75,000 or more. The total damages for the entire case does not exceed
13 \$5,000,000.00. Further there is no federal question at issue, as all the issues related to
14 payment wages alleged herein are based solely on California law and statutes, including the
15 Labor Code, Civil Code, Code of Civil Procedure, and Business and Professions Code.
16

17 3.

18 Plaintiff Antonio Ochoa ("Plaintiff") brings this action against LACO, Inc.
19 (collectively "Defendants") for engaging in a uniform policy and systematic scheme of wage
20 abuse against their hourly paid employees in California. This scheme involved, inter alia,
21 failing to pay hourly employees all wages earned for all hours worked. As a result of
22 Defendant's systematic and clandestine scheme of failing to properly pay their hourly
23 employees wages for all hours worked throughout California, Defendants have violated
24 California common and statutory laws as described more particularly below.
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4.

1
2 Defendants own/owned and operate/operated an industry, business and establishment
3 in within the State of California, including Alameda County, for the purpose of manufacturing
4 products under the name of LACO, Inc. As such, and based upon all the facts and
5 circumstances incident to defendant's business in California, defendants are subject to
6 California Labor Code Sections 1194, et seq., 500, et seq., California Business and
7 Professions Code Section 17200, et seq., (Unfair Practices Act) and the applicable wage
8 order(s) issued by the Industrial Welfare Commission. At least some of the acts complained
9 of herein occurred in Alameda County as defendants do business in Alameda County area.
10 Plaintiff is informed and believes and thereon alleges that at all times herein mentioned
11 defendants are and were corporations licensed to do business and actually doing business in
12 the State of California.
13

5.

14
15 Plaintiff does not know the true names or capacities, whether individual, partner or
16 corporate, of the defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
17 said defendants are sued under such fictitious names, and Plaintiff prays leave to amend this
18 complaint when the true names and capacities are known. Plaintiff is informed and believes
19 and thereon alleges that each of said fictitious defendants was responsible in some way for the
20 matters alleged herein and proximately caused Plaintiff and members of the class to be subject
21 to the illegal employment practices, wrongs and injuries complained of herein.
22
23

6.

24
25 At all times herein mentioned, each of said defendants participated in the doing of the
26 acts hereinafter alleged to have been done by the named defendants; and furthermore, the
27 defendants, and each of them, were the agents, servants and employees of each of the other
28

defendants, as well as the agents of all defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

7.

Plaintiff Antonio Ochoa ("Mr. Ochoa ") was a California resident at all pertinent times herein who worked for Defendants. During his employment as an hourly employee, Defendant required Mr. Ochoa to work hours for which he was never paid, required him to work overtime for which he was never paid and never paid him according to the proper overtime rate. Plaintiff, Antonio Ochoa ("Plaintiff") was employed in California as an hourly employee of LACO, Inc. Mr. Ochoa has worked for defendants within four years prior to the filing of this Complaint.

8.

The true names and capacities, whether is individual, corporate, associate, representative, or otherwise, of Defendants named herein as DOES 1 through 50 are unknown to Plaintiff at this time, and they are therefore sued by such fictitious names pursuant to California Code of Civil Procedure §474. Plaintiff will amend this Complaint to allege the true names and capacities of DOES 1 through 50 when Plaintiff knows them. Each of DOES 1 through 50 is in some manner legally responsible for the violations of law alleged herein.

9.

The acts charged in this Complaint as having been done by Defendant was authorized, ordered, or done by their officers, agents, employees, or representatives, while actively engaged in the management of the Defendant's businesses or affairs.

CLASS ACTION ALLEGATIONS

10.

1
2
3 Plaintiff bring this action on behalf of themselves and as a class action on behalf of all
4 persons similarly situated pursuant to California Code of Civil Procedure §382, Civil Code
5 §1781, and the procedural provisions of Rule 23 of the Federal Rules of Civil Procedure as
6 they have been adopted for use, referenced, and interpreted by this State's courts. Plaintiff
7 seeks to represent and to certify the following class:

8 All current and former hourly employees of LACO, Inc. in the State of
9 California from four years preceding the filing of this Complaint ("the
10 Class").

11 The Class excludes Defendant, its subsidiaries, affiliates, dealers, officers, directors,
12 members of Defendant's affiliates, officers, dealers' and directors' immediate families, any
13 entities in which Defendant has a controlling interest, and the officers, directors, affiliates,
14 legal representatives, heirs, successors and/or assigns of any of the individuals or entities
15 mentioned in this paragraph, and any judge assigned to hear this action.

16
17 11.

18 This action has been brought and may properly be maintained as a class action
19 pursuant to California Code of Civil Procedure §382, Civil Code §1781, as well as under
20 Federal Rule of Civil Procedure 23(a)(1)-(4), 23 (b)(1), (2), or (3), and case law there under, to
21 which the California trial courts have been directed by the California Supreme Court to look
22 for guidance.

23
24 12.

25 Plaintiff believes there are at least several hundred presently and formerly employed
26 hourly-paid LACO, Inc. hourly employees in the Class. Given Defendant's massive size and
27 the systematic nature of Defendant's failure to comply with California employment law and
28

1 common law, the members of the Class are so numerous that joinder of all members is
2 impractical.

3 13.

4 Plaintiff's claims are typical of the claims of the members of the Class because they
5 were hourly employees who, like the members of the Class, were impacted by the conduct
6 complained of herein and sustained damages and other loss arising out of the Defendant's
7 campaign to fail to properly compensate them for all hours worked, and failure to properly
8 maintain accurate records of the actual hours and/or days worked by Plaintiff and the members
9 of the Class.

10 14.

11 Plaintiff will fairly and adequately protect the interests of the Class members. Plaintiff
12 has retained counsel competent and experienced in complex, class action litigation.

13 15.

14 Common questions of law and fact exist as to all members of the Class and
15 predominate over any questions solely affecting individual members of the Class. Among the
16 questions of law and fact common to Plaintiff and the Class are:
17

18 a. Whether Defendant has engaged in a pattern and/or practice in
19 California of failing to properly compensate the Plaintiff and the Class for all hours worked;

20 b. Whether Defendant has engaged in a pattern and/or practice in
21 California of encouraging Plaintiff and the Class not to report all time worked;

22 c. Whether Defendant has engaged in a pattern and/or practice in
23 California of threatening Plaintiff and the Class with discharge, demotion, or discrimination or
24 otherwise intimidating them if they do not work off-the-clock;
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26 d. Whether Defendant failed to keep true and accurate time records for all
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hours worked by its employees and/or improperly altered time records;

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e. Whether Defendant failed to pay Plaintiff and the Class for the work Defendant required them to perform;

f. Whether Defendant violated Cal. Lab. Code §§ 1194 et seq., 1197, 1198, §510, §512, §551, §552, §§201-203, §§226, 226.7;

g. Whether Defendant violated California Industrial Welfare Commission Orders;

h. Whether Plaintiff and the Class are entitled to restitution under Cal. Bus. & Prof. Code §17200 et seq.

i. The nature and extent of class-wide injury and the measure of damages for the injury, and;

j. Whether the Class is entitled to injunctive relief.

16.

A class action is superior to other available methods for the fair and efficient adjudication of this controversy for the following reasons:

a. A class action is the only available method for the fair and efficient adjudication of this controversy. The members of the Plaintiff Class are so numerous that joinder of all members is, at a minimum, impractical, and probably impossible.

b. The damages suffered by individual Class members are relatively small compared to the expense and burden of prosecuting this complex case against a well-financed corporation. Consequently, this class action is the only way that every Class member can redress the harm and damage caused by Defendant's conduct.

c. Should this Court require individual Class members to bring separate actions, this Court would face a multiplicity of lawsuits, which would unduly burden both the

1 California court system and the litigants. The prosecution of separate actions will create a risk
2 of inconsistent rulings and contradictory judgments which might dispose of other Class
3 members' interests who are not parties to the adjudication, thereby impeding and impairing
4 Class members' ability to protect their interests. Inconsistent results will magnify the delay
5 and expense to all parties and to the California court system. By contrast, this class action
6 presents far fewer management difficulties while providing unitary adjudication, economies of
7 scale and comprehensive supervision by a single court.

8 17.

9 In the alternative, this action is certifiable under the provisions of Rule 23(b)(1)(2)
10 and/or (b)(2) of the Federal Rule of Civil Procedure, which have been found applicable to the
11 State of California, because:

12 a. The prosecution of separate actions by individual Class members will
13 create a risk of inconsistent or varying adjudications with respect to individual Class members
14 which would establish incompatible standards of conduct for Defendant;

15 b. The prosecution of separate actions by individual Class members will
16 create a risk of adjudications with respect to the Class which might, as a practical matter, be
17 dispositive of the interests of other Class members not parties to the adjudications, or
18 substantially impair other Class members' ability to protect their interests; and
19

20 c. Defendant has acted or refused to act on grounds generally applicable to
21 the Class thereby making appropriate final injunctive relief with respect to all Class members.
22

23 18.

24 A class action will cause an orderly and expeditious administration of the claims of the
25 Class. Economies of time, effort and expense will be fostered and uniformity of decisions will
26 be insured.
27

19.

1 Plaintiff anticipates little, if any, difficulty in the management of this litigation.
2

3 **SUMMARY OF ALLEGATIONS**

4 20.

5 Defendant offered the Plaintiff and each Class member employment as hourly paid
6 employees, which each Plaintiff and Class member accepted, thereby entering into an
7 employment relationship governed by the California Labor Code and its implementing
8 regulations and orders.

9 21.

10 At the time Plaintiff and members of the Class accepted employment with Defendant,
11 they were expressly told the rate they would earn for each hour worked.
12

13 22.

14 One of LACO, Inc. largest expenses is the payroll of its hourly employees. A basis for
15 LACO, Inc.'s profitability is its creation and implementation of a uniform policy and system
16 that requires hourly employees to work hours for which Defendant will not compensate them
17 throughout its California operations.

18 23.

19 Beginning at a date unknown to Plaintiff, but at least as early as four years preceding the
20 filing of this Complaint, Defendant committed, and continue to commit, acts of wage abuse
21 against their hourly-paid employees by failing to properly compensate LACO, Inc.'s hourly
22 employees throughout California for all hours worked.
23

24 24.

25 Defendant LACO, Inc. has adopted and is using unfair business practices to hold down
26 pay to hourly employees, including the Plaintiff and the Class. Among these unfair business
27

practices are failure to pay hourly employees for all hours worked as required under California law.

25.

Defendant LACO, Inc.'s corporate policies also encourage its employees to not record all their time actually worked, and/or refuses to pay for all hours logged. Indeed, Defendant's corporate practice is to pay little or no overtime. Defendant LACO, Inc. meets this cost-saving goal by systematically having employees work hours for which they will not pay.

FIRST CAUSE OF ACTION

**Failure to Pay Minimum Wage
Violation of Cal. Lab. Codes §§1194, 1194.2, 1197**

26.

Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

27.

The Class Period for this cause of action is four years from the filing of the complaint.

28.

Cal. Lab. Code §1197 provides, "the minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

29.

Cal. Lab. Code §1194 provides in relevant part that any employee receiving less than the legal minimum wage applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage, including interest thereon, reasonable attorneys' fees, and costs of suit.

30.

1 Cal. Lab. Code § 1194.2 provides in relevant part that: "In any action under ... Section
2 1194 to recover wages because of a payment of a wage less than the minimum wage fixed by
3 an order of the commission, an employee shall be entitled to recover liquidated damages in an
4 amount equal to the wages unlawfully unpaid and interest thereon. "

6 31.

7 As alleged herein, Defendant required Plaintiff and the Class members to work
8 without compensating them for all hours worked in violation of California law. By these
9 actions, Defendant violated Cal. Lab. Code § 1197 and is liable to Plaintiff and the Class.

11 32.

12 As a result of the unlawful acts of Defendant, Plaintiff and the Class members have
13 been deprived of compensation in amounts to be determined at trial, and are entitled to
14 recovery of such amounts, including interest thereon, attorneys' fees, costs, and any other
15 damages as set forth under California law, including statutory penalties under Cal. Labor Code
16 §2699.

17 **SECOND CAUSE OF ACTION**

18 **Failure to Pay Overtime Wages**
19 **Violations of Cal. Lab. Code §§ 510, 1194 et seq., 1198**

20 33.

21 Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
22 the preceding paragraphs.

24 34.

25 The Class Period for this cause of action is four years from the filing of the complaint.

26 35.

27 Cal. Lab. Code §510, "Day's work" provides in relevant part:
28

Eight hours of labor constitutes a day's work

* * * *

Any work in excess of eight hours in one workday and any work in excess of 40 hours in anyone workweek and the first eight hours worked on the seventh day of work in anyone workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

36.

Cal. Lab. Code § 1194 provides in relevant part that: "any employee receiving less than the minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

37.

Cal. Lab. Code § 1198 provides in relevant part, "the employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

38.

Industrial Welfare Commission Order No. 7-2001(3)(A)(I) provides in relevant part:

[E]mployees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work.

1 Employment beyond eight (8) hours in any workday or more than
2 six (6) days in any workweek is permissible provided the
3 employee is compensated for such overtime at not less than:

4 (a) One and one-half (1 1/2) times the employees'
5 regular rate of pay for all hours worked in excess of eight (8)
6 hours up to and including 12 hours in any workday, and for the
7 first eight (8) hours worked on the seventh (7th) consecutive day
8 of work in a workweek; and

9 (b) Double the employee's regular rate of pay for all
10 hours worked in excess of 12 hours in any workday and for all
11 hours worked in excess of eight (8) hours on the seventh (7th)
12 consecutive day of work in a workweek.

13 39.

14 As alleged herein, Defendant required Plaintiff and Class members to work overtime
15 without receiving overtime compensation for any hours worked over eight per day or forty per
16 week.

17 40.

18 By their actions alleged above, Defendant violated the provisions of §§ 510, 1194 and
19 1198 of the California Labor Code and is liable to Plaintiff and the Class.

20 41.

21 As a result of the unlawful acts of Defendant, Plaintiff and the Class have been
22 deprived of overtime compensation in amounts to be determined at trial, injunctive relief and
23 are entitled to recovery of such amounts, including interest thereon, attorneys' fees, costs, and
24 penalties.
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THIRD CAUSE OF ACTION

**Unfair Competition
Violations of Cal. Bus. & Prof. Code §17200 et seq.**

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42.

Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

43.

The Class period for this cause of action is four years from the filing of the complaint.

44.

Section 17200 of the California Business & Professions Code prohibits any unlawful, unfair, or fraudulent business acts or practice.

45.

As used in this Complaint and in §17200, "unfair competition" means an unlawful, unfair or fraudulent business act or practice. This conduct is actionable pursuant to Business and Professions Code §§ 17200, 17203.

46.

Through the actions alleged herein, Defendant has engaged in unfair competition within the meaning of Cal. Bus. & Prof. Code § 17200, because Defendant's conduct has violated state wage and hour laws and the California common law as herein described. Indeed, Defendant's conduct as herein alleged has damaged Plaintiff and the Class by wrongfully denying them earned wages and therefore was substantially injurious to Plaintiff and the Class.

47.

Beginning at a date unknown to Plaintiff, but at least as early as four years preceding the filing of this lawsuit, Defendant committed, and continues to commit, acts of unfair

1 competition, as defined by § 17200 et seq. of the California Business and Professions Code,
2 by, among other things, engaging in the acts and practices described above.

3 48.

4 Defendant engaged in unfair competition in violation of Cal. Bus. & Prof. Code §
5 17200 et seq. by violating, inter alia, each of the following, each of which constitutes an
6 independent and separate violation of Cal. Bus. & Prof. Code § 17200 et seq.:

- 7 a. Failure to pay wages for all hours worked;
- 8 b. Cal. Lab. Code §§201,202, 204 et seq.;
- 9 c. Cal. Lab. Code §§226, 226.7;
- 10 d. Cal. Lab. Code §510;
- 11 e. Cal. Lab. Code Section 512;
- 12 f. Cal. Lab. Code §551, which provides that "[e]very person employed in
13 any occupation of labor is entitled to one day's rest there from in seven."
14
- 15 g. Cal. Lab. Code §552, which provides that "No employer of labor shall
16 cause his employees to work more than six days in seven."
17
- 18 h. Cal. Lab. Code § 1182. 11, which provides the minimum wage for all
19 industries;
- 20 i. Cal. Lab. Code § 1194 et seq.;
- 21 j. Cal. Lab. Code § 1197, 1198;
- 22 j. Cal. Lab. Code § 2802;
- 23 k. California Industrial Welfare Commission Order
24
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49.

1 Defendants' course of conduct, acts, and practices in violation of the California laws
2 mentioned in each paragraph above constitute a separate and independent violation of §17200,
3 et seq., of the California Business and Professions Code.
4

5 50.

6 The harm to Plaintiff and the Class in being wrongfully denied lawfully earned wages
7 outweighs the utility, if any, of Defendant's policy/practices and, therefore, Defendant's
8 actions described herein constitute an unfair business practice or act within the meaning of
9 California Business and Professions Code §17200.
10

11 51.

12 Defendant's conduct described herein constitutes an incipient violation of state wage
13 and hour laws and the California and/or violates the policy or spirit of such laws or otherwise
14 significantly threatens or harms competition.
15

16 52.

17 Defendant's course of conduct also violates Cal. Bus. & Prof. Code § 17200 in that it
18 is fraudulent and improper.
19

20 53.

21 The unlawful, unfair, and fraudulent business practices and acts of Defendants, and
22 each of them, as described above, have injured Plaintiff and members of the Class in that they
23 were wrongfully denied the payment of all wages owed as required under California law.
24

25 54.

26 Pursuant to Business and Professions Code § 17203, the Court may impose injunctive
27 relief against any conduct found to constitute unfair competition pursuant to Business and
28 Professions Code § 17200. The court may also make such orders or judgments, including the

1 appointment of a receiver, as may be necessary to prevent the use or employment by any
2 person of any practice which constitutes unfair competition, or as may be necessary to restore
3 to any person in interest any money or property, real or personal, which may have been
4 acquired by means of such unfair competition.

5 **FOURTH CAUSE OF ACTION**

6 **Failure to Make Payment Within the Required Time**

7 **Violations of Cal. Lab. Code §§201-203, 226**

8 55.

9 Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
10 the preceding paragraphs.
11

12 56.

13 The Class Period for this cause of action is four year from the filing of the complaint.
14

15 57.

16 Cal. Lab. Code §201 provides in relevant part, "[i]f an employer discharges an
17 employee, the wages earned and unpaid at the time of discharge are due and payable
18 immediately."
19

20 58.

21 Cal. Lab. Code §202 provides in relevant part, "[i]f an employee not having a written
22 contract for a definite period quits his or his employment, his or his wages shall become due
23 and payable not later than 72 hours thereafter, unless the employee has given 72 hours
24 previous notice of his or his intention to quit, in which case the employee is entitled to his or
25 his wages at the time of quitting."
26
27
28

59.

1 As alleged herein, Defendant failed to pay earned wages to Plaintiff and the Class who
2 are former employees of LACO, Inc. at the time they became due and payable. Thus,
3 Defendant violated Cal. Lab. Code §§201 and 202.
4

5 60.

6 As a result of Defendant's unlawful acts, Plaintiff and the Class who are former
7 employees of LACO, Inc. are entitled to recover, pursuant to Cal. Lab. Code §203, continuing
8 wages as a penalty from the due date thereof at the same rate until paid or until this action was
9 commenced; but for no more than 30 days.
10

11 61.

12 In addition, Cal. Lab. Code §226(a) provides in relevant part that "Every employer
13 shall furnish each of his or his employees ... an itemized statement in writing showing ... total
14 hours worked by the employee ... and all applicable hourly rates in effect during the pay
15 period and the corresponding number of hours worked at each hourly rate by the employee."
16 Cal. Lab. Code §226(b) then provides in relevant part: "Any employee suffering injury as a
17 result of a knowing and intentional failure by an employer to comply with subdivision (a)
18 shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial
19 pay period in which a violation occurs and one hundred dollars (\$100) per employee for each
20 violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand
21 dollars (\$4,000) and shall be entitled to an award of costs and reasonable attorney's fees."
22 Plaintiff and the Class are entitled to recover accordingly.
23

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff, on behalf of themselves and the members of the Class, pray
26 for judgment against the Defendant as follows:
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1. Determining that this action may proceed and be maintained as a class action;
2. On the First Cause of Action:
 - a. A declaratory judgment that Defendant has violated Cal. Lab. Code §§1194, 1194.2 and 1197;
 - b. An award to Plaintiff and the Class of damages for the balance of unpaid overtime compensation, including interest thereon, and penalties subject to proof;
 - c. An award to Plaintiff and the Class of reasonable attorneys' fees and costs pursuant to Cal. Lab. Code § 1194 and/or other applicable state laws;
 - d. An award to Plaintiff and the Class of liquidated damages, pursuant to Cal. Lab. Code § 1194.2;
 - e. Awarding the Named Plaintiff and the Class pre-judgment interest at the highest legal rate, on all unpaid wages from the date such wages were earned and due;
3. For the Second Cause of Action:
 - a. A declaratory judgment that Defendant has violated Cal. Lab. Code
 - b. An award to Plaintiff and the Class of damages for the amount of unpaid overtime compensation, including interest thereon, and penalties subject to proof;
 - c. An award to Plaintiff and the Class of reasonable attorneys' fees and costs pursuant to Cal. Lab. Code § 1194 and/or other applicable state laws;
4. For the Third Cause of Action:
 - a. Ordering Defendant, its agents, servants, and employees, and all persons acting, directly or indirectly, in concert with it, to restore and disgorge all funds to each member of the Class acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and therefore constitute unfair competition under § 17200 et seq. of the California Business and Professions Code;
 - b. For injunctive relief pursuant to California Business & Professions Code § 17203, consisting of, inter alia: (1) a declaration that Defendant has engaged in unlawful and unfair business acts and practices in

1 violation of California Business & Professions Code § 17200 et seq.;
2 (2) a preliminary and/or permanent injunction enjoining Defendant and
3 its respective successors, agents, servants, officers, directors, employees
4 and all persons acting in concert with them from pursuing the policies,
5 acts and practices complained of herein and prohibiting Defendant from
6 continuing such acts of unfair and illegal business acts and practices;

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17 5. For the Fourth Cause of Action:

18 a. A declaratory judgment that Defendants have violated Labor
19 Code Section 2802;

20 b. An award to Plaintiff and the Class of compensatory damages to
21 be paid by Defendant for failure to indemnify Plaintiff and the Class
22 for all necessary expenditures or losses incurred by the employee in
23 direct consequence of the discharge of his or her duties, or of his or
24 her obedience to the directions of the employer, even though unlawful,
25 unless the employee, at the time of obeying the directions, believed
26 them to be unlawful;

27 c. An award to Plaintiff and the Class of reasonable attorneys' fees
28 and costs
pursuant to Labor Code Section 2802;

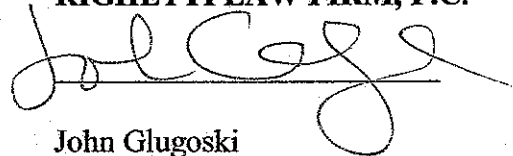
d. An award of all accrued interest from the date that the
compensation was due and payable at the interest rate specified in
subdivision (b) or Section 3289 of the Civil Code; and

6. Awarding Plaintiff and the Class their attorneys' fees and costs of suit to the
extent permitted by law;

7. All other relief as this Court may deem proper.

Dated: April 15, 2009

Respectfully submitted,
RIGHETTI LAW FIRM, P.C.



John Glugoski
Attorneys for Plaintiff