

1 **MATTHEW RIGHETTI {121012}**
2 **JOHN GLUGOSKI {191551}**
3 **MICHAEL RIGHETTI {258541}**
4 **RIGHETTI · GLUGOSKI, P.C.**

5 456 Montgomery Street, Suite 1400
6 San Francisco, CA 94104
7 Telephone: (415) 983-0900
8 Facsimile: (415) 397-9005

9 Attorneys for Plaintiff

10 **THE SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF RIVERSIDE**

12 **MICHAEL REHSE on behalf of himself and**
13 **others similarly situated.**

14 **PLAINTIFF,**

15 **vs.**

16 **BARRETT BUSINESS SERVICES, INC. and**
17 **DOES 1 to 100, Inclusive.**

18 **DEFENDANTS.**

Case No.: RIC 1307773

CLASS ACTION

PLAINTIFF MICHAEL REHSE'S FIRST
AMENDED COMPLAINT FOR
DAMAGES, RESTITUTION AND
PENALTIES:

1. **FAILURE TO PAY WAGES FOR ALL TIME WORKED AT MINIMUM WAGE OR OVERTIME RATES IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**
2. **FAILURE TO REIMBURSE EXPENSES PURSUANT TO LABOR CODE SECTION 2802**
3. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
4. **VIOLATION OF LABOR CODE SECTIONS 201- 203**
5. **UNFAIR BUSINESS PRACTICES IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, et seq.**
6. **VIOLATION OF LABOR CODE SECTION 2698-99**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, MICHAEL REHSE ("Plaintiff"), who alleges and complains against DEFENDANTS BARRETT BUSINESS SERVICES, INC., and DOES 1 to 100, inclusive, (hereinafter, collectively referred to as "Defendants") as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages, interest, and restitution based on Defendants' failure to pay the following: wages for all hours worked at minimum wage, regular rate, and/or overtime rate of pay; unpaid overtime wages based on improperly calculated overtime; failure to reimburse 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, injunctive relief and other equitable relief, reasonable attorney's fees pursuant to California law, costs, and interest brought on behalf of Plaintiff and others similarly situated.

II. JURISDICTION AND VENUE

2. This class action is brought pursuant to Section 382 of the California Code of Civil Procedure. The monetary damages and restitution sought by Plaintiffs will be established according to proof at trial. The claims of individual class members, including Plaintiffs, are under the \$75,000 diversity jurisdictional threshold for federal court. For example, a class member who was or has been employed for a relatively brief period could never reasonably be expected to receive a recovery of \$75,000 or more. The total damages for the entire case are not anticipated to exceed \$5,000,000.00. Further there is no federal question at issue, as all the issues related to payment wages alleged herein are based solely on California law and statutes, including the Labor Code, Civil Code, Code of Civil Procedure, and Business and Professions Code. Finally, more than 75% of the class resides in California as the claims are brought only on behalf of California workers. This Court has jurisdiction over Plaintiff's and the Class Members' claims for unpaid wages for all time worked at minimum wage, regular rate, or overtime rate of pay; improperly calculated overtime

1 wages; expense reimbursement; and claims for restitution under Business & Professions Code
2 section 17200 *et seq.* because Defendants employed Plaintiff and the alleged injuries occurred in
3 California, in Riverside County, at Defendants Moreno Valley location.

4
5 **III. PARTIES**

6 3. Plaintiff brings this action on behalf of himself and other members of the general
7 public similarly-situated, including non-exempt employees working in California for Defendants
8 within the four years prior to the filing of this action. The named Plaintiff and the class of persons
9 on whose behalf this action is filed are current, former and/or future employees of Defendants
10 working as non-exempt employees. At all times mentioned herein, the currently named Plaintiff is
11 and was a resident of and domiciled in California and was employed in a non-exempt position by
12 Defendants, within the four years prior to the filing of the complaint.

13 4. Plaintiff is a former employee of Defendants having worked for Defendants as a
14 mechanic/technician from October 2008 to January 2011 and again from January 2012 to March
15 2013 at the Moreno Valley and Riverside Goodyear/Certified Tire locations.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant BARRETT
17 BUSINESS SERVICES, INC. is authorized to do business within the State of California and is
18 doing business in the State of California and at all times relevant hereto violated or caused to be
19 violated the wage and hour provisions of the Labor Code and/or any provision of the Industrial
20 Welfare Commission's wage orders regulating hours and days of work as alleged in more detail
21 herein. Defendants employed Plaintiff and other putative class members in Riverside County at its
22 retail location in Moreno Valley.

23 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
24 through 50 are corporations, or are other business entities or organizations of a nature unknown to
25 Plaintiff.

26 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
27 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
28 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,

1 supervisor, independent contractor and/or employee of each Defendant who violated or caused to be
2 violated the minimum wage and overtime provisions of the Labor Code and/or any provision of the
3 Industrial Welfare Commission's wage orders regulating hours and days of work.

4 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
5 sues said defendants by said fictitious names, and will amend this complaint when the true names
6 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
7 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
8 named defendants is in some manner responsible for the events and allegations set forth in this
9 complaint.

10 9. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each
11 defendant was an employer, was the principal, agent, partner, joint venturer, joint employer, officer,
12 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
13 and/or predecessor in interest of some or all of the other defendants, and was engaged with some or
14 all of the other defendants in a joint enterprise for profit, and bore such other relationships to some
15 or all of the other defendants so as to be liable for their conduct with respect to the matters alleged
16 in this complaint. Plaintiff is further informed and believes and thereon alleges that each defendant
17 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
18 times, each defendant knew or should have known about, authorized, ratified, adopted, approved,
19 controlled, aided and abetted the conduct of all other defendants. As used in this complaint,
20 "Defendant" or "defendant" means "Defendants and each of them," and refers to the defendants
21 named in the particular cause of action in which the word appears and includes all named
22 Defendants and Does 1 through 100.

23 10. At all times mentioned herein, each defendant was the co-conspirator, agent, servant,
24 employee, joint employer and/or joint venturer of each of the other defendants and was acting within
25 the course and scope of said conspiracy, agency, employment, joint employment and/or joint venture
26 and with the permission and consent of each of the other Defendants.

27 11. Plaintiff makes the allegations in this complaint without any admission that, as to any
28 particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff

1 reserves all of Plaintiff rights to plead in the alternative.
2

3 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

4 12. **Failure to pay wages for all hours worked at the legal minimum wage rate:**
5 Defendants use a time and attendance timekeeping policy and practice which resulted in time during
6 which non-exempt mechanic and technician employees were subject to the control of their employer
7 but were not paid wages for that time. Defendants' mechanic and technician employees, including
8 Plaintiff, were compensated on a commission pay plan. However, Defendants required and
9 expected Plaintiff and the class members to spend substantial time under the control of the
10 Defendants and performing non-commission tasks (i.e., tasks for which Plaintiff and the class
11 members were paid nothing under Defendants' pay plan) and then averaged the commission pay
12 over all hours worked. Compliance with California's minimum wage law is determined by
13 analyzing the compensation paid for each hour worked; averaging hourly compensation is not
14 permitted under California law.

15 13. In California, an employer is required to pay an employee for all "hours worked"
16 which includes all time that an employee is under control of the employer and including all time that
17 the employee is suffered and permitted to work. This includes the time an employee spends, either
18 directly or indirectly, performing services which inure to the benefit of the employer and any time
19 during which an employer's policies and procedures do not allow employees to use time effectively
20 for their own purposes. (*Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 586-588; *Bono*
21 *Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968.) In turn, this includes but is not limited
22 to time spent by employees during which they cannot effectively use for their own purposes because
23 the employees are compelled to do so by the necessities of the employer's business. The minimum
24 wage statute applicable to Defendants' business currently provides: "Every employer shall pay to
25 each employee, on the established payday for the period involved, not less than the applicable
26 minimum wage *for all hours worked* in the payroll period, whether the remuneration is measured by
27
28

1 time, piece, commission, or otherwise.” (Italics added.) This language expresses the intent to ensure
2 that employees be compensated at the minimum wage for each hour worked.

3 14. Labor Code sections 1194 and 1197 require that an employer compensate employees
4 for "hours worked" at least at a minimum wage rate of pay as established by the wage orders.

5 15. Despite that California law requires employers to pay employees for all hours worked
6 at least at a minimum wage rate, Defendants suffered and permitted Plaintiff and the class to
7 perform non-commission related work for which they received no compensation at all. Defendants
8 then averaged the commission work over all hours work as a subterfuge to make it appear as though
9 Defendants were complying with the minimum wage requirements even though Defendants
10 regularly paid nothing for some hours worked.

11 16. In California, an employer is required to pay an employee for all "hours worked"
12 which includes all time that an employee is under control of the employer and including all time that
13 the employee is suffered and permitted to work. This includes the time an employee spends, either
14 directly or indirectly, performing services which inure to the benefit of the employer and any time
15 during which an employer's policies and procedures do not allow employees to use time effectively
16 for their own purposes. (*Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 586-588; *Bono*
17 *Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968.) In turn, this includes but is not limited
18 to time spent by employees during which they cannot effectively use for their own purposes because
19 the employees are compelled to do so by the necessities of the employer's business. Such time
20 includes time an employee is required to clock in, be present (for reasons including but not limited
21 to clocking in prior to a shift or to receive communications) from Defendant (via bell or other form
22 of communication), and/or to be timely located at a work station/location.

23 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
24 higher rate of pay for hours worked in excess of 8 hours in a workday, 40 hours in a workweek, and
25 on any seventh consecutive day of work in a workweek.

26 Any work in excess of eight hours in one workday and any work in
27 excess of 40 hours in any one workweek and the first eight hours
28 worked on the seventh day of work in any one 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

1 one day shall be compensated at the rate of no less than twice the
2 regular rate of pay for an employee. In addition, any work in excess of
3 eight hours on any seventh day of a workweek shall be compensated
4 at the rate of no less than twice the regular rate of pay of an employee.

(Lab. Code §510; IWC Wage Orders § 3.)

5 18. Despite that California law requires employers to pay employees for all hours worked
6 and at a higher rate of pay when those hours fall during work periods in excess of 8 hours in a
7 workday and 40 hours in a workweek; Defendants would fail to correctly calculate and pay
8 employees wages for time which Plaintiff and similarly situated employees were under control of
9 Defendants and could not use time effectively for their own purpose for reasons that benefitted
10 Defendants. To the extent the employees had already worked 8 hours in the day and on workweeks
11 they had already worked 40 hours in a workweek, the employees should have been paid *overtime*
12 calculated from the correct regular rate for this unpaid time. Defendants' common and uniform
13 payroll practice of incorrectly calculating the regular rate resulted in Plaintiff and other non-exempt
14 class member employees working time which should have been paid at the legal overtime rate, but
15 was not paid correct premium wages in violation of Labor Code sections 510, 1194, and the Wage
16 Orders.

17 19. **Failure to reimburse expenses pursuant to Labor Code section 2802:** California
18 Labor Code Section 2802 provides in relevant part, "An employer shall indemnify his or her
19 employee for all necessary expenditures or losses incurred by the employee in direct consequence of
20 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
21 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
22 unlawful."

23 20. Defendants failed to indemnify Plaintiff and the class members for all business
24 expenses and/or losses as required under Labor Code Section 2802 incurred while working under
25 the direction of Defendants. For example, Defendant expected and required Plaintiff and class
26 members to provide and utilize their own personal tools and equipment for work throughout the day
27 without compensation or reimbursement.

28 21. **Pay Stub Violations:** California Labor Code section 226(a) provides (inter alia) that,

1 upon paying an employee his or her wages, the employer must “furnish each of his or her employees
2 ... an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked
3 by the employee, except for any employee whose compensation is solely based on a salary and who
4 is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
5 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
6 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
7 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
8 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
9 name of the employee and his or her social security number, (8) the name and address of the legal
10 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
11 corresponding number of hours worked at each hourly rate by the employee.”

12 22. Defendants here failed to provide accurate wages statements to Plaintiff and similarly
13 situated class member employees.

14 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

15 23. Plaintiff brings this action on behalf of himself, on behalf of all other non-exempt
16 employees subject to the same policies, and on behalf of the General Public, and as a member of a
17 Class defined as follows:

18 **Class:** All current and former non-exempt mechanic and/or technician employees
19 employed by Defendants in California at any time within the four years prior to the
20 filing of the initial complaint in this action and through the date notice is mailed to a
21 certified class.

22 **Waiting Time Sub-Class:** All former non-exempt mechanic and/or technician
23 employees employed by Defendants in California at any time within the four years
24 prior to the filing of the initial complaint in this action and through the date notice is
25 mailed to a certified class who did not receive payment of all unpaid wages within
26 the statutory time period.

27 24. There is a well defined community of interest in the litigation and the class and sub-
28 class are ascertainable:

1 A. **Numerosity:** While the exact number of class members in the class and sub-
2 class are unknown to the Plaintiff at this time, the class and sub-class are so numerous that the
3 individual joinder of all members is impractical under the circumstances of this case.

4 B. **Common Questions Predominate:** Common questions of law and fact exist
5 as to all members of the Plaintiff the class and sub-class and predominate over any questions that
6 affect only individual members of the class and sub-class. The common questions of law and fact
7 include, but are not limited to:

8 i. Whether Defendants violated Labor Code sections 1194 and 1197 by
9 not paying wages to Plaintiff and class member employees at a minimum wage rate for time that
10 Plaintiff and the class was under control of Defendants but were not paid any wages;

11 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
12 not paying Plaintiff and the class premium overtime wages based upon the correct regular rate for
13 time periods they were under control of Defendants during work periods that they had already
14 worked in excess of 8 hours in a workday, 40 hours in a workweek, or worked on a seventh
15 consecutive day of work in a workweek;

16 iii. Whether Defendants violated Labor Code sections 2802 by failing to
17 reimburse Plaintiff and the class for expenses;

18 iv. Whether Defendants failed to provide Plaintiff and the class with
19 accurate itemized statement at the time they received their itemized statements;

20 v. Whether Defendants failed to provide the Waiting Time Sub-Class
21 with all of their wages as well as their last wages within the statutory time period;

22 vi. Whether Defendants committed unlawful business acts or practice
23 within the meaning of Business and Professions Code section 17200 *et seq.*;

24 vii. Whether Class Members are entitled to unpaid wages, penalties and
25 other relief in conjunction with their claims;

26 viii. Whether, as a consequence of Defendant's unlawful conduct, the Class
27 Members are entitled to restitution, and/or equitable relief; and

28 ix. Whether Defendant's affirmative defenses, if any, raise any common

1 issues of law or fact as to Plaintiff, and the Class Members as a whole.

2 C. **Typicality:** Plaintiff's claims are typical of the claims of the class members.
3 Plaintiff and the members of the class sustained damages arising out of Defendants' failure to pay
4 wages for all hours of work at the required minimum/overtime wage rate of pay and failure to pay
5 expenses. Plaintiff and the members of the class suffered injury arising out of Defendants' failure to
6 furnish them with accurate itemized wage statements in compliance with Labor Code section 226.

7 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the
8 interests of the members of the class. Plaintiff has no interest that is adverse to the interests of the
9 other class members.

10 E. **Superiority:** A class action is superior to other available means for the fair
11 and efficient adjudication of this controversy. Because individual joinder of all members of each
12 class is impractical, class action treatment will permit a large number of similarly situated persons to
13 prosecute their common claims in a single forum simultaneously, efficiently, and without the
14 unnecessary duplication of effort and expense that numerous individual actions would engender.
15 The expenses and burdens of individual litigation would make it difficult or impossible for
16 individual members of each class to redress the wrongs done to them, while important public
17 interests will be served by addressing the matter as a class action. The cost to and burden on the
18 court system of adjudication of individualized litigation would be substantial, and substantially
19 more than the costs and burdens of a class action. Individualized litigation would also present the
20 potential for inconsistent or contradictory judgments.

21 F. **Public Policy Consideration:** Employers throughout the state violate wage
22 and hour laws as a means to control expenses and obtain a competitive advantage in the
23 marketplace. Current employees are often afraid to assert their rights out of fear of direct or indirect
24 retaliation. Former employees are fearful of bringing actions because they perceive their former
25 employers can blacklist them in their future endeavors through negative references and by other
26 means. Class actions provide the class members who are not named in the complaint with a type of
27 anonymity that allows for vindication of their rights.

28

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**
3 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

4 **(Against all named Defendants and Does 1-100 by the Minimum Wage and Overtime Class)**

5 25. Plaintiff hereby incorporates by reference paragraphs 1-24 above, as if fully set
6 herein by reference.

7 26. At times relevant to this Complaint, Plaintiff and the members of the class were non-
8 exempt mechanic and/or technician employees of Defendants covered by Labor Code sections 1194
9 and 1197.

10 27. Pursuant to Labor Code sections 1194, 1197, and Wage Orders, Plaintiff and the
11 Minimum Wage and Overtime Class are entitled to receive wages for all hours worked and those
12 wages must be paid at least at the minimum/overtime wage rate in effect during the time the
13 employees earned the wages.

14 28. Labor Code section 510, subdivision (a), states in relevant part:

15 Eight hours of labor constitutes a day's work. Any work in excess of
16 eight hours in one workday and any work in excess of 40 hours in any
17 one workweek and the first eight hours worked on the seventh day of
18 work in any one workweek shall be compensated at the rate of no less
19 than one and one-half times the regular rate of pay for an employee.
20 Any work in excess of 12 hours in one day shall be compensated at
21 the rate of no less than twice the regular rate of pay for an employee.
22 In addition, any work in excess of eight hours on any seventh day of a
23 workweek shall be compensated at the rate of no less than twice the
24 regular rate of pay of an employee. Nothing in this section requires an
25 employer to combine more than one rate of overtime compensation in
26 order to calculate the amount to be paid to an employee for any hour
27 of overtime work.

28 29. Defendants' payroll policies and procedures failed to compensate the class at the
required regular and/or premium overtime wage rates for all time that they were under control of
Defendants and all time that they could not effectively use time for their own purposes because of
the necessities of the employer's business.

30. As a result of Defendants' unlawful conduct, Plaintiff and members of the class have

1 suffered damages in an amount subject to proof, to the extent that they were not paid wages at a
2 minimum/overtime wage rate for hours worked as required by law.

3 31. Pursuant to California Labor Code Sections 1194 and 1194.2, Plaintiff and the
4 Minimum Wage Class are entitled to recover unpaid minimum/overtime wages, interest thereon,
5 and attorneys' fees and costs.

6 **SECOND CAUSE OF ACTION**

7 **FAILURE TO REIMBURSE EXPENSES LABOR CODE SECTION 2802**

8 **(Against all named Defendants and Does 1-100 by the class)**

9 32. Plaintiff incorporates paragraphs 1 through 31 above as though fully set forth herein.

10 33. California Labor Code Section 2802 provides in relevant part, "An employer shall
11 indemnify his or her employee for all necessary expenditures or losses incurred by the employee in
12 direct consequence of the discharge of his or her duties, or of his or her obedience to the directions
13 of the employer, even though unlawful, unless the employee, at the time of obeying the directions,
14 believed them to be unlawful."

15 34. Defendants failed to indemnify Plaintiff and the class members for all business
16 expenses and/or losses as required under Labor Code Section 2802 incurred while working under
17 the direction of Defendants. For example, Defendant expected and required Plaintiff and class
18 members to provide and utilize their own personal tools and equipment for work throughout the day
19 without compensation or reimbursement. Plaintiff and the class were not reimbursed for such
20 expenses as required by Labor Code section 2802.

21 35. Defendants' unlawful conduct alleged herein occurred in the course of employment
22 of Plaintiff and all others similarly situated and such conduct has continued through the filing of this
23 Complaint.

24 36. Plaintiff, on behalf of himself and the class, seeks damages and all other relief
25 allowable for expense reimbursement required by the aforementioned labor code and pre-judgment
26 interest.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN**
3 **VIOLATION OF LABOR CODE SECTION 226**

4 **(Against all named Defendants and Does 1-100 by the Wage Statement Class)**

5 37. Plaintiff incorporates paragraphs 1 through 36 of this complaint as if fully alleged
6 herein.

7 38. At all relevant times, Plaintiff and the other members of the class were non-exempt
8 mechanic and/or technician employees of Defendants covered by Labor Code Section 226.

9 39. Defendants do not comply with the requirements of Labor Code Section 226 which
10 requires that "every employer shall, semimonthly or at the time of each payment of wages, furnish
11 each of his or her employees, either as a detachable part of the check, draft, or voucher paying the
12 employee's wages, or separately when wages are paid by personal check or cash, an accurate
13 itemized statement in writing showing:

14 (1) gross wages earned,

15 (2) total hours worked by the employee, except for any employee whose
16 compensation is solely based on a salary and who is exempt from payment of
17 overtime under subdivision (a) of Section 515 or any applicable order of the
Industrial Welfare Commission,

18 (3) the number of piece-rate units earned and any applicable piece rate if the
19 employee is paid on a piece-rate basis,

20 (4) all deductions, provided that all deductions made on written orders of the
employee may be aggregated and shown as one item,

21 (5) net wages earned,

22 (6) the inclusive dates of the period for which the employee is paid,

23 (7) the name of the employee (and the last four digits of his or her social security
24 number or an employee identification number other than a social security number
may be shown on the itemized statement),

25 (8) the name and address of the legal entity that is the employer, and

26 (9) all applicable hourly rates in effect during the pay period and the corresponding
27 number of hours worked at each hourly rate by the employee.

28 Defendants fail to provide accurate and complete information, as specified in items 1, 5 and 9 above

1 as set forth in section 226(a).

2 40. California Labor Code Section 226(e) provides: "An employee suffering injury as a
3 result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be
4 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in
5 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
6 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
7 shall be entitled to an award of costs and reasonable attorney's fees." Plaintiff and the class
8 members suffered injuries as defined and set forth in California Labor Code Section 226(e) because,
9 in addition to Defendants' failure to provide accurate and complete information, as specified in
10 items 1, 5 and 9 above as set forth in section 226(a), Plaintiff and the class could not "promptly and
11 easily determine" from the wage statement alone the correct hourly rate in effect during the pay
12 period (i.e., without reference to other documents or information).

13 41. During the class period, Defendants failed to provide Plaintiff and class members,
14 with timely and accurate wage and hour statements showing gross wages earned, net wages earned,
15 and all applicable hourly rates in effect during each pay period with the corresponding number of
16 hours worked at each hourly rate by that individual.

17 42. As alleged herein, Plaintiff and class members are/were not exempt from the
18 requirements of California's labor laws and regulations. Plaintiff and class members were and will
19 be injured by Defendants' failure to comply with the aforementioned requirements for time records
20 and wage statements.

21 43. Based on Defendants' conduct as alleged herein, Defendants are liable to Plaintiff
22 and class members for damages and penalties for each labor code violation, injunctive relief, plus
23 interest, attorneys' fees, expenses, and costs of suit.

24 **FOURTH CAUSE OF ACTION**

25 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**

26 **(Against all named Defendants and Does 1-100 by the Waiting Time Class)**

27 44. Plaintiff incorporates paragraphs 1 through 43 of this complaint as if fully alleged
28 herein.

1 45. At all relevant times, Plaintiff and the other members of the Waiting Time Sub-Class
2 were employees of Defendants covered by Labor Code Sections 201 or 202.

3 46. Pursuant to Labor Code Sections 201 or 202, Plaintiff and members of the Waiting
4 Time Sub-Class were entitled upon termination to timely payment of all wages earned and unpaid
5 prior to termination. Discharged employees were entitled to payment of all wages earned and unpaid
6 prior to discharge immediately upon termination. Employees who resigned were entitled to payment
7 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
8 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
9 unpaid prior to resignation at the time of resignation.

10 47. Defendants failed to pay Plaintiff and members of the Sub-Class all wages earned
11 and unpaid prior to termination in accordance with Labor Code Section 201 or 202. Plaintiff is
12 informed and believes and thereon alleges that at all relevant times within the limitations period
13 applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly
14 employees upon separation of employment wages for all unpaid wages and/or not paying them final
15 wages timely upon separation of employment.

16 48. Defendants' failure to pay Plaintiff and members of the Sub-Class all wages earned
17 prior to termination timely in accordance with Labor Code Sections 201 or 202 was willful.
18 Defendants had the ability to pay all wages earned by hourly workers prior to termination in
19 accordance with Labor Code Sections 201 or 202, but willfully adopted policies or practices
20 incompatible with the requirements of Labor Code Sections 201 or 202. Defendants' practices
21 included but are not limited to failing to pay wages for time employees were under control of
22 Defendants and failing to properly calculate and pay all overtime in compliance with California law.
23 When Defendants failed to pay Plaintiff and members of the Sub-Class timely upon termination all
24 wages earned prior to termination, Defendants knew what they were doing and willfully did what
25 they did. These unpaid wages included all minimum wages and unpaid overtime.

26 49. Pursuant to Labor Code Section 201 and/or 202, Plaintiff and members of the Sub-
27 Class are entitled to all wages earned prior to termination that Defendants did not pay them.

28 50. Pursuant to Labor Code Section 203, Plaintiff and members of the Sub-Class are

1 entitled to continuation of their wages, from the day their earned and unpaid wages were due upon
2 termination until paid, up to a maximum of 30 days.

3 51. As a result of Defendants conduct, Plaintiff and members of the Waiting Time Class
4 have suffered damages in an amount, subject to proof, to the extent they were not paid all
5 continuation wages owed under Labor Code Section 203.

6 52. Pursuant to Labor Code Sections Plaintiff and members of the Waiting Time Class
7 are entitled to recover the full amount of their unpaid continuation wages under Section 203, and
8 interest thereon.

9 **FIFTH CAUSE OF ACTION**

10 **UNFAIR COMPETITION**

11 **(Against all named Defendants and Does 1-100 by the California Class)**

12 53. Plaintiff incorporates paragraphs 1 through 52 of this complaint as if fully alleged
13 herein.

14 54. The unlawful conduct of Defendants alleged herein constitutes unfair competition
15 within the meaning of Business and Professions Code Section 17200. This unfair conduct includes
16 Defendants' use of policies and procedures which resulted in violation of California's minimum
17 wage law vis-à-vis failing to pay employees for all hours which they worked, improperly calculating
18 the amount of overtime due to employees, failure to pay expense reimbursement, untimely payment
19 of all unpaid wages after separation of employment, and provision of inaccurate wage statements.
20 Due to Defendants' unfair and unlawful business practices in violation of the Labor Code,
21 Defendants have gained a competitive advantage over other comparable companies doing business
22 in the State of California that comply with their obligations to pay employees for all hours worked.

23 55. As a result of Defendants' unfair competition as alleged herein, Plaintiff and
24 members of the class have suffered injury in fact and lost money or property, as described in more
25 detail above.

26 56. Pursuant to Business and Professions Code Section 17203, Plaintiff and members of
27 the class are entitled to restitution of all wages and other monies rightfully belonging to them that
28 Defendants failed to pay them and wrongfully retained by means of their unlawful and unfair

1 business practices.

2 57. Plaintiff also seeks an injunction against Defendants on behalf of the California
3 Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in
4 each of the unlawful practices, policies and patterns set forth herein.

5 **SIXTH CAUSE OF ACTION**
6 **[Penalties Pursuant to Labor Code Section 2698-99]**

7 58. Plaintiff herein re-alleges and incorporates each and every allegation set forth in the
8 proceeding paragraphs and brings this cause of action on a representative basis on behalf of himself
9 and all others similarly situated.

10 59. As a further and direct proximate result of the aforementioned allegations asserting
11 violations of various labor code provisions, Plaintiff is entitled to recover penalties pursuant to the
12 authority provided by California Labor Code Sections 2698-99 (Private Attorney General's Act aka
13 PAGA). Plaintiff seeks statutory penalties for violations of the labor code sections violated for the
14 amount set forth in the labor code section – and where no amount is set forth for penalties then as set
15 forth in Labor Code Sections 2698-99.

16 60. Plaintiff has taken the steps necessary to exhaust administrative remedies and Plaintiff
17 has exhausted his administrative remedies.

18 61. Plaintiff has received a letter from the Labor Workforce Development Agency and/or
19 the 33 days has expired since mailing the Labor Workforce Development Agency and therefore
20 Plaintiff has been advised by the Labor Workforce Development Agency that it will not take action in
21 this matter and allows Plaintiff to move forward to recover these penalties on his own behalf as an
22 aggrieved employee and on behalf of all other similarly situated employees as allowed and authorized
23 under Labor Code Sections 2698-99.
24
25
26
27
28

1 **PRAYER FOR RELIEF**

2 **WHEREFORE, PLAINTIFF, ON HIS BEHALF AND ON BEHALF OF THOSE**
3 **SIMILARLY-SITUATED, PRAYS AS FOLLOWS:**

4 1. That the Court determine that this action may be maintained as a class action (for the
5 entire California Class and/or the specified sub-class) pursuant to Code of Civil Procedure section
6 382 and any other applicable law;

7 2. That the named Plaintiff be designated as class representative for the California Class
8 (and the sub-class thereof);

9 3. A declaratory judgment that the practices complained herein are unlawful; and,

10 4. An injunction against Defendants enjoining them, and any and all persons acting in
11 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
12 herein.

13 **ON THE FIRST CAUSE OF ACTION:**

14 1. That the Defendants be found to have violated the minimum wage and overtime
15 wage provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and the class;

16 2. For damages, according to proof, including but not necessarily limited to unpaid
17 wages;

18 3. For liquidated damages pursuant to Labor Code section 1194.2;

19 4. For pre-judgment interest, including but not limited to that recoverable under
20 California Labor Code section 1194, and post-judgment interest;

21 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
22 under California Labor Code section 1194; and,

23 6. For such and other further relief, in law and/or equity, as the Court deems just or
24 appropriate.

25 **ON THE SECOND CAUSE OF ACTION:**

26 1. That the Defendants be found to have violated the expense reimbursement provisions
27 of Labor Code section 2802 as to the Plaintiff and the class;

28 2. For damages, according to proof;

1 herein;

2 4. For restitution to the full extent permitted by law; and,

3 5. For such and other further relief, in law and/or equity, as the Court deems just or
4 appropriate.

5 **ON THE SIXTH CAUSE OF ACTION:**

6 1. For the maximum statutory penalties as set forth in the California Labor Code
7 and/or the Private Attorney's General Act for each labor code violation alleged herein.

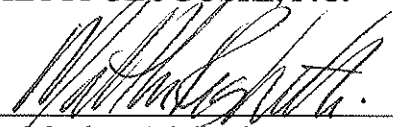
8 2. For an award of attorney fees and costs; and other relief as permitted, and

9 3. For such and other further relief, in law and/or equity, as the Court deems just or
10 appropriate.

11
12
13 Dated: July 22, 2013

Respectfully submitted,

14 **RIGHETTI GLUGOSKI, P.C.**

15
16 By: 
Matthew Righetti
Attorneys for PLAINTIFF

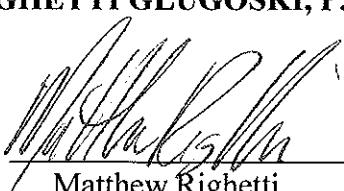
17
18
19 **DEMAND FOR JURY TRIAL**

20 PLAINTIFF demands a trial by jury for himself and the Class on all claims so triable.

21
22 Dated: July 22, 2013

Respectfully submitted,

23
24 **RIGHETTI GLUGOSKI, P.C.**

25
26 By: 
Matthew Righetti
Attorneys for PLAINTIFF

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

BARRETT BUSINESS SERVICES, INC.
and DOES 1-100 inclusive, Defendants.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MICHAEL REHSE on behalf himself and others
similarly situated, Plaintiff,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

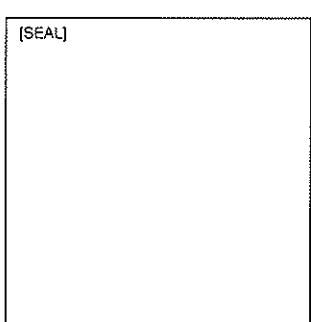
The name and address of the court is:
(El nombre y dirección de la corte es): **Riverside County Superior Court**
4050 Main Street
Riverside, CA 92501

CASE NUMBER:
(Número del Caso): **RIC 1307773**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Matthew Righetti (121012), Righetti Glugoski, P.C., 456 Montgomery St. #1400, San Francisco, CA 94104

DATE: _____ Clerk, by _____, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify): **BARRETT BUSINESS SERVICES, INC.**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):