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OF ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 01 2010

John A. Clarke, Executive Officer/Clerk
By ~~RUCENA GOREZ~~ Deputy

ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

FRANK SMITH, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

PLAINTIFF,

v.

IRONWOOD MANAGEMENT, AND DOES
1 TO 100 INCLUSIVE,

DEFENDANTS.

CLASS ACTION

CASE No.: BC 398020

FIRST AMENDED COMPLAINT

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
5. LATE PAYMENT OF WAGES (CAL.
LAB. CODE SEC. 210, 226 ET SEQ.,
226.7, 1198 AND IWC WAGE ORDER,
SEC. 10
6. WAITING TIME PENALTIES (CAL.
LAB. CODE SEC. 201-203
7. FAILURE TO FURNISH WAGE AND
HOUR STATEMENTS (CAL. LAB. CODE
SEC. 226, 558, 2698)

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FIRST CAUSE OF ACTION

COME NOW, Plaintiff, individuals over the age of eighteen (18), and bring this challenge to defendant's lucrative, repressive and unlawful business practices on behalf of themselves and a class of all others similarly situated and for a Cause of Action against defendants, IRONWOOD MANAGEMENT, and DOES 1-100, inclusive, (hereinafter defendants) and each of them, alleges as follows:

THE PARTIES, JURISDICTION AND VENUE

1.

This class action is brought pursuant to §382 of the California Code of Civil Procedure. The monetary damages and restitution sought by plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The monetary damages sought on behalf of each and every member of the class and as aggregate class damages exceed those jurisdictional limits as well. However, the claims of individual class members, including Plaintiff, are under the \$75,000 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. 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.

2.

Plaintiff Frank Smith ("Plaintiff") brings this action against Ironwood Management, (including all California Ironwood Management Developments, collectively "Ironwood Management") for engaging in a uniform policy and systematic scheme of wage abuse against

1 their hourly paid employees in California. This scheme involved, inter alia, failing to pay
2 hourly employees all wages earned for all hours worked. As a result of Defendant's systematic
3 and clandestine scheme of failing to properly pay their hourly employees wages for all hours
4 worked throughout California, Ironwood Management has violated California common and
5 statutory laws as described more particularly below.
6

7 3.

8 Ironwood Management is a property management company in the United States, with
9 approximately 41 property locations in California with a team of approximately 70 managers,
10 assistant managers, and maintenance workers. Ironwood Management has its corporate
11 headquarters in Encino, California. Ironwood Management manages/leases apartments
12 throughout California.
13

14 4.

15 Venue is proper in this county under California Business and Professions Code §17203
16 and California Code of Civil Procedure §§395(a) and 395.5. Ironwood Management operates
17 approximately 41 apartment complexes in California, and employs at least 70- 80 persons in
18 the State of California. Further, Plaintiff is informed and believes, and based thereon allege,
19 that many of the centralized policies and procedures and conduct complained about herein
20 emanated from and occurred at Defendant's properties in Los Angeles County.
21

22 5.

23 The Defendant is within the jurisdiction of this Court. Ironwood Management is not
24 only headquartered in but also operates numerous stores in Los Angeles County. Thus,
25 Defendant has obtained the benefits of the laws of the State of California and the California
26 property markets.
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Plaintiff Frank Smith ("Mr. Smith") was a California resident at all pertinent times herein who worked from approximately 2000, through the present, at a California Ironwood Management location. During his employment as a hourly employee, Defendant required Mr. Smith to work time off-the-clock for which he was never paid and work overtime for which he was never paid.

7.

Plaintiff Frank Smith ("Mr. Smith") was a California resident at all pertinent times herein who worked from approximately January 2000 to 2008 at a Ironwood Management. During his employment as an hourly employee, Defendant required Mr. Smith to work time off-the-clock for which he was never paid, work overtime for which he was never paid.

8.

The true names and capacities, whether is individual, corporate, associate, representative, or otherwise, of Defendants named herein as DOES 1 through 100 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 100 when Plaintiff knows them. Each of DOES 1 through 100 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 Plaintiff bring this action on behalf of themselves and as a class action on behalf of all
2 persons similarly situated pursuant to California Code of Civil Procedure §382, Civil Code
3 §1781, and the procedural provisions of Rule 23 of the Federal Rules of Civil Procedure as they
4 have been adopted for use, referenced, and interpreted by this State's courts. Plaintiff seek to
5 represent and to certify the following class:
6

7 All current and former hourly paid maintenance employees of Ironwood
8 Management in the State of California from four years preceding the
filing of this Complaint ("the Class").

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

15 11.

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

21 12.

22 Plaintiff believes there are at least several hundred presently and formerly employed
23 hourly-paid Ironwood Management hourly employees in the Class. Given Defendant's massive
24 size and the systematic nature of Defendant's failure to comply with California employment
25 law and common law, the members of the Class are so numerous that joinder of all members is
26 impractical.
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13.

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

14.

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

15.

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

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

1 Defendant required them to perform;

2 f. Whether Defendant violated Cal. Lab. Code §§ 1194 et seq., 1197,
3 1198, §510, §512, §551, §552, §§201-203, §§226, 226.7;

4 g. Whether Defendant violated California Industrial Welfare Commission
5 Orders;

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

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

10 j. Whether the Class is entitled to injunctive relief.

11
12
13 16.

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

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

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

23 c. Should this Court require individual Class members to bring separate
24 actions, this Court would face a multiplicity of lawsuits, which would unduly burden both the
25 California court system and the litigants. The prosecution of separate actions will create a risk
26 of inconsistent rulings and contradictory judgments which might dispose of other Class
27
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1 members' interests who are not parties to the adjudication, thereby impeding and impairing
2 Class members' ability to protect their interests. Inconsistent results will magnify the delay and
3 expense to all parties and to the California court system. By contrast, this class action presents
4 far fewer management difficulties while providing unitary adjudication, economies of scale and
5 comprehensive supervision by a single court.
6

7 17.

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

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

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

28 19.

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

1 SUMMARY OF ALLEGATIONS

2 20.

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

8 21.

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

12 22.

13 One of Ironwood Management's largest expenses is the payroll of its hourly employees.
14 One of the basis for Ironwood Management's profitability is its creation and implementation of
15 a uniform policy and system that requires hourly employees to work hours for which Ironwood
16 Management will not compensate them throughout its California properties.
17

18 24.

19 Beginning at a date unknown to Plaintiff, but at least as early as four years preceding
20 the 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 Ironwood Management's
22 hourly employees throughout its stores in California for all hours worked.
23

24 25.

25 Defendant's clandestine program of failing to pay its hourly employees for all hours
26 worked is, in part, carried out through its culture. Defendant gives employees work assignments
27 that Defendant knows or should know its employees cannot complete within their scheduled
28 hours. Defendant also pressures employees to complete their work assignments through

1 intimidation, threats of discharge, and demotion, while at the same time precluding such
2 employees from clocking in hours worked and necessary to accomplish their assignments
3 outside their regular work schedule. Consequently, employees must work after clocking out at
4 the end of their shifts, before clocking in at the beginning of their shifts, and through meal and
5 rest breaks. When hours are recorded on time sheets, then Defendant routinely and
6 systematically alters the time records to delete time worked.
7

8 26.

9 Defendant Ironwood Management has adopted and is using unfair business practices to
10 hold down pay to hourly employees, including the Plaintiff and the Class. Among these unfair
11 business practices are failure to pay hourly employees for all hours worked as required under
12 California law.
13

14 27.

15 Defendant Ironwood Management's corporate policies also encourage its employees to
16 not record all their time actually worked, and/or refuses to pay for all hours logged. Indeed,
17 Defendant's corporate practice is to pay little or no overtime. Defendant Ironwood
18 Management meets this cost-saving goal by systematically having employees work hours for
19 which they will not pay including but not limited to work performed while on-call.
20

21
22 **FIRST CAUSE OF ACTION**

23 **Failure to Pay Minimum Wage**

24 **Violation of Cal. Lab. Codes §§1194, 1194.2, 1197**

25 28.

26 Plaintiff re-allege and incorporate by reference each and every allegation set forth in the
27 preceding paragraphs.
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29.

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

30.

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."

31.

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.

32.

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

33.

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

34.

As a result of the unlawful acts of Defendant, Plaintiff and the Class members have been deprived of compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, including interest thereon, attorneys' fees, costs, and any other

1 damages as set forth under California law, including statutory penalties under Cal. Labor Code
2 §2699.

3 **SECOND CAUSE OF ACTION**

4 **Failure to Pay Overtime Wages**

5 **Violations of Cal. Lab. Code §§ 510, 1194 et seq., 1198**

6
7 35.

8 Plaintiff re-allege and incorporate by reference each and every allegation set forth in the
9 preceding paragraphs.

10 36.

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

12 37.

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

14 Eight hours of labor constitutes a day's work

15 * * * *

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

38.

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

1 recover in a civil action the unpaid balance of the full amount of this minimum wage or
2 overtime compensation, including interest thereon, reasonable attorney's fees, and costs of
3 suit."

4
5 39.

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

9 40.

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

12 [E]mployees shall not be employed more than eight (8) hours in any
13 workday or more than 40 hours in any workweek unless the
14 employee receives one and one-half (1 1/2) times such employee's
15 regular rate of pay for all hours worked over 40 hours in the
16 workweek. Eight (8) hours of labor constitutes a day's work.
17 Employment beyond eight (8) hours in any workday or more than
18 six (6) days in any workweek is permissible provided the employee
19 is compensated for such overtime at not less than:

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

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

41.

As alleged herein, Defendant required Plaintiff and Class members to work overtime
and work during meal and/or rest breaks without receiving overtime compensation for any
hours worked over eight per day or forty per week.

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42.

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

43.

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

THIRD CAUSE OF ACTION

Unfair Competition

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

44.

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

45.

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

46.

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

47.

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.

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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.

49.

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

50.

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

- a. Failure to pay wages for all hours worked;
- b. Failure to provide meal and rest breaks as required under California law;
- c. Cal. Lab. Code §§201,202, 204 et seq.;
- d. Cal. Lab. Code §§226, 226.7;
- e. Cal. Lab. Code §510;
- f. Cal. Lab. Code Section 512;
- g. Cal. Lab. Code §551, which provides that "[e]very person employed in any occupation of labor is entitled to one day's rest there from in seven."
- h. Cal. Lab. Code §552, which provides that "No employer of labor shall cause his employees to work more than six days in seven."

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- i. Cal. Lab. Code § 1182.11, which provides the minimum wage for all industries;
- j. Cal. Lab. Code § 1194 et seq.;
- k. Cal. Lab. Code § 1197, 1198;
- l. California Industrial Welfare Commission Order

51.

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

52.

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

53.

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

54.

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

55.

1 Cal. Lab. Code §202 provides in relevant part, "[i]f an employee not having a written
2 contract for a definite period quits his or his employment, his or his wages shall become due
3 and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous
4 notice of his or his intention to quit, in which case the employee is entitled to his or his wages
5 at the time of quitting."
6

7 61.

8 As alleged herein, Defendant failed to pay earned wages to Plaintiff and the Class who
9 are former employees of Ironwood Management at the time they became due and payable.
10 Thus, Defendant violated Cal. Lab. Code §§201 and 202.

11 62.

12 As a result of Defendant's unlawful acts, Plaintiff and the Class who are former
13 employees of Ironwood Management are entitled to recover, pursuant to Cal. Lab. Code §203,
14 continuing wages as a penalty from the due date thereof at the same rate until paid or until this
15 action was commenced; but for no more than 30 days.
16

17 63.

18 In addition, Cal. Lab. Code §226(a) provides in relevant part that "Every employer shall
19 furnish each of his or his employees ... an itemized statement in writing showing ... total hours
20 worked by the employee ... and all applicable hourly rates in effect during the pay period and
21 the corresponding number of hours worked at each hourly rate by the employee." Cal. Lab.
22 Code §226(b) then provides in relevant part: "Any employee suffering injury as a result of a
23 knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled
24 to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in
25 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
26 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000)
27
28

1 and shall be entitled to an award of costs and reasonable attorney's fees." Plaintiff and the Class
2 are entitled to recover accordingly.

3
4 **FIFTH CAUSE OF ACTION**
5 **[Late Payment of Wages, California Labor Code**
6 **Section 210, 226 et seq., 226.7, 1198 and IWC Wage Order, Sec. 10 Pursuant to Labor**
7 **Code Section**

8 64.
9 Plaintiff herein re-alleges and incorporates each and every allegation set forth in the
10 proceeding paragraphs.

11 65..
12 As a further and direct proximate result of the failure to pay wages, including overtime
13 compensation, Plaintiff was deprived of his wages, including overtime compensation, and is
14 entitled to penalties under California Labor Code §§204, 210, 226.7, 226 et seq., 1198 and
15 IWC Wage Order, Sec. 10 pursuant to California Labor Code Section 2698-99 (Private
16 Attorney General's Act aka PAGA).

17 66.
18 Plaintiff's Counsel has taken the steps necessary to exhaust the administrative remedies
19 and Plaintiff has exhausted his administrative remedies.

20 67.
21 The Labor Workforce Development Agency will not take action in this matter and has
22 allowed Plaintiff to move forward to recover these penalties.

23 **SIXTH CAUSE OF ACTION**
24 **[Waiting Time Penalties California Labor Code**
25 **§§201-203]**

26 68.
27 Plaintiff herein re-alleges and incorporates each and every one of the allegations set
28 forth in the proceeding paragraphs.

69.

As a further and direct proximate result of the failure to pay wages, including overtime compensation, Plaintiff was deprived of his wages, including overtime compensation, and has resigned or been terminated from his employment, and is entitled to recover thirty additional days of pay pursuant to California Labor Code §§201, 202, and 203 et seq. by virtue of Ironwood Management, Inc. failure to timely pay all wages due and owing upon resignation or termination.

70.

Plaintiff's Counsel has taken the steps necessary to exhaust the administrative remedies and Plaintiff has exhausted his administrative remedies under California Labor Code Section 2698 99.

SEVENTH CAUSE OF ACTION
[Failure to Furnish Wage and Hour Statements California
Labor Code §§226, 558 et seq. and Pursuant to 2698

71.

Plaintiff herein realleges and incorporates each and every one of the allegations set forth in the preceding paragraphs.

72.

During the period covered by this lawsuit Defendants failed to provide the Plaintiff with timely and accurate wage and hour statements showing gross wages earned, total hours worked, all deductions made, net wages earned, and all applicable hours and rates in effect during each pay period and the corresponding number of hours worked at each hourly rate by Plaintiff.

73.

Based on Defendants' conduct as alleged herein, Defendants are liable for civil penalties pursuant to California Labor Code sections 226.3, 558 and other applicable provisions of the Employment Laws and Regulations.

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Plaintiff's Counsel has taken the steps necessary to exhaust the administrative remedies and Plaintiff has exhausted his administrative remedies under California Labor Code Section 2698-99.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of themselves and the members of the Class, pray for judgment against the Defendant as follows:

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 wages, including 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;

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

5. For the Fourth Cause of Action:

- a. A declaratory judgment that Defendant has violated Cal. Lab. Code §§201, 202 and 226;
- b. An award to Plaintiff and the Class who are former Ironwood Management employees of continuing wages as a penalty from the due date thereof at the same rate until paid or until this action was commenced; but for no more than 30 days;
- c. An award to Plaintiff and the Class of interest, which shall accrue from the date that the wages were due and payable, pursuant to Cal Lab. Code §218.6.
- d. 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;
- e. An award to Plaintiff and the Class of actual damages as well as an award of costs and reasonable attorneys' fees, pursuant to Cal. Lab. Code §226;

6. For the Fifth, Sixth and Seventh Causes of Action:

- a. For general damages, including interest, according to proof;

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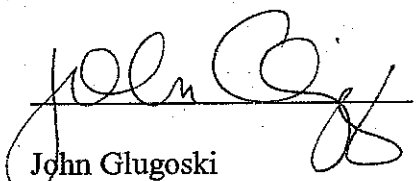
- b. For Plaintiff's costs incurred herein;
- c. For punitive damages according to proof;
- d. For statutory damages as set forth in the applicable Labor Code sections; and/or IWC Orders,
- e. For all appropriate declaratory and equitable relief.
- f. For all such other relief as is just and necessary under the circumstances.

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: FEBRUARY 25, 2010

Respectfully submitted,
RIGHETTI LAW FIRM P.C.


John Glugoski
Attorneys for Plaintiff