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14 the Proposed Class

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **COUNTY OF LOS ANGELES**

18  
19 VALERIE DRAGON, on behalf of herself  
20 and all others similarly situated and the  
21 general public,

Plaintiff,

22 v.

23 PREMIUM RETAIL SERVICES, INC., and  
24 DOES 1-15,

Defendants.

Case No.:

**BC478439**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

**CLASS ACTION** (California Code of Civil  
Procedure §382)

1. **FAILURE TO PAY OVERTIME  
COMPENSATION AND  
MINIMUM WAGE (CAL. LABOR  
CODE §§ 1194, 1197)**
2. **FAILURE TO PROVIDE MEAL  
AND REST PERIODS (CAL.  
LABOR CODE § 226.7)**
3. **PAYMENT FOR REQUIRED  
AND NECESSARY**

**CONFORMED COPY  
ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES**

**FEB 03 2012**

John A. Clarke, Executive Officer/Clerk  
BY Valerie Dragon Deputy  
Eugenia Juliano

1 EXPENDITURES (CAL. LABOR  
2 CODE § 2802)

3 4. FAILURE TO PROVIDE  
4 ACCURATE ITEMIZED  
5 STATEMENTS (CAL.  
6 LABOR CODE § 226)

7 5. WAITING TIME PENALTIES  
8 (CAL. LABOR. CODE § 203)

9 6. VIOLATION OF LABOR CODE  
10 SECTION 204

11 7. UNFAIR BUSINESS PRACTICES  
12 (CAL. BUSINESS AND  
13 PROFESSIONS CODE §§ 17200  
14 ET SEQ.)

15 8. PRIVATE ATTORNEY  
16 GENERAL ACT (CAL. LABOR  
17 CODE §§ 2698 ET SEQ.)

18 DEMAND FOR JURY TRIAL

19 Plaintiff Valerie Dragon (“PLAINTIFF” or “Ms. Dragon”), on behalf of herself, the general  
20 public, and all similarly situated Merchandisers employed in California by Defendant, Premium  
21 Retail Services, Inc. and DOES 1-15 (collectively “DEFENDANTS”) alleges as follows:

22 INTRODUCTION

23 1. This is a class and representative action arising out of DEFENDANTS’ violations of  
24 California’s Labor laws. Ms. Dragon and all other similarly situated individuals were employed by  
25 DEFENDANTS as Merchandisers. As Merchandisers, DEFENDANTS require PLAINTIFF and  
26 other aggrieved employees to service DEFENDANTS’ clients by visiting such clients’ retail stores  
27 and offices to set up advertising displays, take inventory, re-stock merchandise, and other activities  
28 designed to promote in-store sales. These clients included retailers such as Best Buy, Toys R’ Us,  
and Bed Bath and Beyond. Ms. Dragon and other similarly situated individuals performed job  
duties at multiple client locations throughout the workday, however DEFENDANTS failed to pay  
Ms. Dragon and other similarly situated Merchandisers for travel time, time spent receiving and

1 loading displays to transport to stores, automobile and travel-related expenses incurred in  
2 connection with traveling to different job sites, and the cost of tools required to set up displays.  
3 DEFENDANTS further failed to pay Ms. Dragon and other similarly situated individuals any wages  
4 whatsoever for preliminary time and postliminary time when DEFENDANTS required  
5 Merchandisers to log onto their computer to obtain their assignments, download and print out  
6 instructions for such assignments, call clients to advise them of her arrival time, transport displays  
7 and supplies to their job sites, call DEFENDANT Premium Retail Services' hotline to report  
8 problems with advertising displays, and submit daily reports of their activities. DEFENDANTS  
9 also required Ms. Dragon and other similarly situated individuals to

10         2.         Instead, PLAINTIFF and other similarly situated individuals were paid on an hourly  
11 basis, for a specifically allotted period of time (so-called "maximum hours authorized" according to  
12 DEFENDANTS' Employee Handbook), based on DEFENDANTS' determination as to how long it  
13 would take to service the client, and irrespective of the time it actually took to perform their duties.  
14 The maximum hours authorized failed to adequately consider necessary time incurred receiving and  
15 loading displays and supplies, traveling to and from job and sites, receiving and reviewing job  
16 instructions, and report writing.

17         3.         Moreover, in or around March 2011, PLAINTIFF and other similarly situated  
18 individuals were instructed by DEFENDANTS to service retail stores for Discover Card, one of  
19 DEFENDANTS' new clients ("DISCOVER CARD CAMPAIGN"). PLAINTIFF and other  
20 similarly situated Merchandisers would travel to businesses that had not accepted Discover Card in  
21 the last ninety (90) days ("Discover Card locations") to check to see if there was a Discover Card  
22 decal on the business' window, and to discuss the benefits of using Discover Card with the  
23 business' Manager. Plaintiff and other similarly situated individuals were paid on a piece rate  
24 system at a rate of \$3.00 to \$5.00 per location. Nonetheless, from the time DEFENDANTS  
25 implemented this purported piece rate system through the present, DEFENDANTS instructed and  
26 required PLAINTIFF and other similarly situated individuals to perform additional tasks unrelated  
27 to the Merchandiser's servicing of a Discover Card location, including storing and transporting  
28 Discover Card decals and paperwork to the client's location, and submitting daily reports of their

1 activities, without paying compensation to these employees for their performance of those  
2 additional tasks.

3 4. DEFENDANTS failed to provide PLAINTIFF and other similarly situated  
4 individuals with accurate itemized statements as required by Cal. Labor Code § 226, accurately  
5 reflecting the total hours worked, hourly rates, the number of piece-rate units earned, and the pay  
6 rate corresponding to each piece completed. In particular, such statements were not accurate  
7 because they did not contain the hours PLAINTIFF and members of the PLAINTIFF CLASS  
8 worked “off the clock,” nor did they contain the applicable hourly rates for such “off the clock”  
9 work. Indeed, DEFENDANTS did not pay their Merchandisers in personal check or cash, but  
10 instead paid their Merchandisers by issuing PLAINTIFF and other similarly situated individuals  
11 with pre-paid credit cards containing the purported balance of their earned wages.

12 5. In addition, PLAINTIFF and other similarly situated individuals regularly  
13 worked more than five (5) hours without receiving an uninterrupted 30-minute meal period, and  
14 regularly worked more than four (4) hours without receiving a 10-minute rest period, throughout  
15 their employment with DEFENDANTS, yet were denied proper compensation for working through  
16 these required rest and meal periods. Specifically, PLAINTIFF and other similarly situated  
17 individuals were unable to take uninterrupted 30-minute meal periods within the first 5 hours of  
18 commencing work , and 10-minute rest periods for each 4 hours worked, due to the overwhelming  
19 demands of the job, and the number of businesses that DEFENDANTS required PLAINTIFF and  
20 similarly situated individuals to visit per day.

21 6. Accordingly, PLAINTIFF brings this action on behalf of herself and other similarly  
22 situated former and current employees to recover the wages that DEFENDANTS improperly took or  
23 withheld from, or failed to pay to, their Merchandisers in violation of California law. PLAINTIFF  
24 also seeks redress for other consequences of DEFENDANTS’ unlawful conduct.

#### 25 **JURISDICTION AND VENUE**

26 7. The Court has personal jurisdiction over DEFENDANTS because they are doing  
27 business in the State of California.

1           8.       Venue is proper is this Court because DEFENDANTS committed the unlawful acts  
2 described herein in Los Angeles County, employed PLAINTIFF in Los Angeles County, the harms  
3 to Plaintiff occurred in Los Angeles County, and since Defendants do not reside in California,  
4 pursuant to CCP, Section 395, venue is proper in any county designated by Plaintiff in the  
5 Complaint.

6   **PARTIES**

7           9.       PLAINTIFF Valerie Dragon, at all relevant times, was a non-exempt employee of  
8 DEFENDANT and was a citizen of the State of California. PLAINTIFF and all other similarly  
9 situated employees were regularly and systematically required to work “off the clock,” denied  
10 overtime pay, denied meal and rest periods, denied reimbursement for necessary expenditures or  
11 losses incurred by PLAINTIFF in direct consequence of the discharge of her duties, and were  
12 subjected to other violations of the California Labor Code, Business and Professions Code, Wage  
13 Orders of the California Industrial Welfare Commission and similar provisions of California law.

14           10.     PLAINTIFF, Valerie Dragon, was employed by DEFENDANTS as a Merchandiser,  
15 within the State of California, from approximately October 16, 2008 through November 18, 2011.  
16 At all relevant times, PLAINTIFF was a resident of Los Angeles County.

17           11.     DEFENDANT, Premium Retail Services, Inc. (“PRS”), is a Missouri corporation,  
18 conducting business in the State of California, including Los Angeles County. PRS provides  
19 merchandising support services to various retail clients and manufacturers. Such services include  
20 assembly of advertising displays, audits, inventory tasks, kiosk maintenance, and signage  
21 development and placement. PRS provides these services by employing Merchandisers like  
22 PLAINTIFF and other similarly situated individuals, and sending them to client locations  
23 throughout California to perform these tasks.

24           12.     The true names and capacities of defendants named herein as DOES 1 through 15,  
25 inclusive, whether individual, corporate, associate, or otherwise, are unknown to PLAINTIFF, who  
26 therefore sue such defendants by such fictitious names. PLAINTIFF will amend this Complaint to  
27 show the true names and capacities when they have been determined.  
28

1           13.     At all times mentioned herein, DEFENDANTS, and each of them, were the agents,  
2 representatives, employees, successors, assigns, parents, subsidiaries and/or affiliates, each of the  
3 other, and at all times pertinent hereto were acting within the course and scope of their authority as  
4 such agents, representatives, employees, successors, assigns, parents, subsidiaries and/or affiliates.

5                                   **CLASS ACTION ALLEGATIONS**

6           14.     PLAINTIFF brings this action on behalf of herself and all others similarly situated as  
7 a class action pursuant to California Code of Civil Procedure Section 382. The class that  
8 PLAINTIFF seeks to represent (herein referred to as " PLAINTIFF CLASS") is composed of  
9 DEFENDANTS' current and former employees. The PLAINTIFF CLASS is defined as follows:

10                   A.     **All current and former employees of DEFENDANTS who**  
11                               **were employed by Premium Retail Services, Inc. in**  
12                               **California as Merchandisers, at any time within four years**  
13                               **prior to the initiation of this action through the date of**  
14                               **judgment (hereinafter the "Class Period").**

15 PLAINTIFF further seeks to represent the following sub-class (herein referred to as the  
16 "DISCOVER CARD SUB-CLASS") which is defined as follows:

17                   B.     **All current and former employees of DEFENDANTS who were**  
18                               **employed by Premium Retail Services, Inc. in California as**  
19                               **Merchandisers, at any time during the Class Period, who participated in**  
20                               **DEFENDANTS' Discover Card Campaign.**

21           15.     The members of the class are so numerous that joinder of all members would be  
22 unfeasible and not practicable. The membership of the entire class is unknown to PLAINTIFF at  
23 this time; however, it is estimated that the entire class is greater than 500 individuals, but the  
24 identity of such membership is readily ascertainable via inspection of the personnel records and  
25 other documents maintained by DEFENDANTS.

26           16.     There are common questions of law and fact as to the class which predominate over  
27 questions affecting only individual members, including, without limitation:

28                   A.     Whether DEFENDANTS denied PLAINTIFF and the PLAINTIFF CLASS

1 all the wages, including overtime wages, to which they were entitled pursuant to the California  
2 Labor Code, the California Industrial Welfare Commission's ("IWC") Wage Orders, and all other  
3 applicable Employment Laws and Regulations;

4 B. Whether DEFENDANTS failed to provide PLAINTIFF and members of the  
5 PLAINTIFF CLASS with meal and rest periods as required by law;

6 C. Whether DEFENDANTS failed to provide PLAINTIFF and members of the  
7 PLAINTIFF CLASS with accurate itemized statements;

8 D. Whether DEFENDANTS owe PLAINTIFF and the PLAINTIFF CLASS  
9 waiting time penalties pursuant to Cal. Labor Code § 203;

10 E. Whether DEFENDANTS violated Labor Code § 204 by failing to pay all  
11 wages earned in a timely manner;

12 F. Whether DEFENDANTS violated Labor Code § 2802 by failing to pay for  
13 necessary expenditures and/or losses incurred by employees in the discharge of their duties;

14 G. Whether DEFENDANTS engaged in unfair business practices;

15 H. Whether DEFENDANTS acted with, malice, oppression and fraud thereby  
16 justifying the award of punitive and exemplary damages;

17 I. The effect upon and the extent of damages suffered by the PLAINTIFF  
18 CLASS and the appropriate amount of compensation; and

19 J. The legality of DEFENDANTS' piece rate compensation systems.

20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 17. PLAINTIFF and members of the PLAINTIFF CLASS are non-exempt current  
22 and former employees of DEFENDANTS. Nonetheless, DEFENDANTS systematically failed to  
23 pay overtime compensation and the prevailing minimum wage to PLAINTIFF and members of  
24 PLAINTIFF CLASS. As part of their job duties, PLAINTIFF and members of the PLAINTIFF  
25 CLASS were, and are routinely required by DEFENDANTS to work off-the-clock. Specifically,  
26 DEFENDANTS required PLAINTIFF and members of the PLAINTIFF CLASS to service  
27 DEFENDANTS' clients by visiting such clients' retail stores and offices to set up advertising  
28 displays, take inventory, re-stock merchandise, and other activities designed to promote in-store

1 sales. While PLAINTIFF and members of the PLAINTIFF CLASS are required by DEFENDANTS  
2 to visit multiple job sites throughout their workday, DEFENDANTS failed to pay PLAINTIFF and  
3 other members of the PLAINTIFF CLASS for time spent traveling between these job sites.  
4 Moreover, while DEFENDANTS required PLAINTIFF and members of the PLAINTIFF CLASS to  
5 accept delivery of, and store advertising displays and other materials at their houses, and required  
6 PLAINTIFF and members of the PLAINTIFF CLASS to deliver such materials to the job sites as a  
7 condition of their employment, DEFENDANTS failed to compensate PLAINTIFF and members of  
8 the PLAINTIFF CLASS for travel time from their houses to the first job site of the day.  
9 DEFENDANTS further failed to pay PLAINTIFF and members of the PLAINTIFF CLASS any  
10 compensation whatsoever for “clerical ” time in which DEFENDANTS required PLAINTIFF and  
11 members of the PLAINTIFF CLASS to log onto their computers to obtain their assignments,  
12 download and print out instructions for assignments, call clients to advise them of their arrival time,  
13 transport displays and supplies to their job locations, call DEFENDANT PRS’ hotline to report  
14 problems with advertising displays, and submit daily reports of their activities, which included  
15 uploading photos taken at job sites and attaching the photos to the reports. Furthermore, even  
16 though DEFENDANTS required PLAINTIFF and members of the PLAINTIFF CLASS to complete  
17 reports of their daily assignments and activities by 9:00 p.m. each night, and transport items back to  
18 their homes after their last assignment of the day, including micro-chips and displays that could not  
19 be set up properly, DEFENDANTS failed to compensate PLAINTIFF and members of the  
20 PLAINTIFF CLASS for travel time from their last job site of the day to their houses.

21 18. Moreover, in or around October 2011, PLAINTIFF and members of the PLAINTIFF  
22 CLASS were instructed by DEFENDANTS to service retail stores for Discover Card, one of  
23 DEFENDANTS’ new clients. PLAINTIFF and members of the PLAINTIFF CLASS would travel  
24 to businesses who had not accepted Discover Card in the last ninety (90) days (“Discover Card  
25 locations”) to check to see if there was a Discover Card decal on the business’ window, and to  
26 discuss the benefits of using Discover Card with the business’ Manager. PLAINTIFF and members  
27 of the PLAINTIFF CLASS were paid on a piece rate system at a rate of \$3.00 to \$5.00 per location.  
28 Nonetheless, from the time DEFENDANTS implemented this purported piece rate system through



1 the present, DEFENDANTS instructed and required PLAINTIFF and members of the PLAINTIFF  
2 CLASS to perform tasks that were unrelated to the actual servicing of a Discover Card location,  
3 including travel between different businesses for the Discover Card program, storing and  
4 transporting Discover Card decals and paperwork to the Discover Card location, and submitting  
5 daily reports of their activities, without paying compensation to PLAINTIFF and members of the  
6 PLAINTIFF CLASS for their performance of those tasks. DEFENDANTS' actions systematically  
7 violated PLAINTIFF's and the PLAINTIFF CLASS' right to overtime compensation and the  
8 prevailing minimum wage.

9 19. Additionally, DEFENDANTS failed to pay PLAINTIFF and the PLAINTIFF  
10 CLASS for all necessary expenditures and/or losses incurred in direct consequence of the discharge  
11 of their duties, or of their obedience to the directions of the employer. Among other things,  
12 DEFENDANTS failed to reimburse PLAINTIFF and members of the PLAINTIFF CLASS for  
13 automobile and travel-related expenses incurred in connection with traveling to different client  
14 locations, and tools required to set up displays, including tape and screwdrivers, even though such  
15 expenses were incurred in direct consequence of the discharge of their duties.

16 20. Furthermore, DEFENDANTS failed to provide and/or make available uninterrupted,  
17 work-free 30-minute meal periods for shifts in excess of five (5) hours to PLAINTIFF and members  
18 of the PLAINTIFF CLASS, and failed to compensate PLAINTIFF and members of the PLAINTIFF  
19 CLASS for these missed meal periods. DEFENDANTS also failed to provide PLAINTIFF and  
20 members of the PLAINTIFF CLASS with rest periods for shifts in excess of four (4) hours  
21 throughout their employment with DEFENDANTS, and failed to compensate PLAINTIFF and the  
22 PLAINTIFF CLASS for these missed rest periods. Specifically, PLAINTIFF and members of the  
23 PLAINTIFF CLASS were unable to take uninterrupted 30-minute meal periods, and 10-minute rest  
24 periods due to the overwhelming demands of their jobs, and the number of businesses that  
25 DEFENDANTS required PLAINTIFF and members of the PLAINTIFF CLASS to visit per day.

26 21. DEFENDANTS failed to provide PLAINTIFF and members of the PLAINTIFF  
27 CLASS with accurate itemized statements as required by Cal. Labor Code § 226 accurately  
28 reflecting the total hours worked, hourly rates, the number of piece-rate units earned, and the pay

1 rate corresponding to each piece completed. In particular, such statements were not accurate  
2 because they did not contain the hours PLAINTIFF and members of the PLAINTIFF CLASS  
3 worked "off the clock," nor did they contain the applicable hourly rates for such "off the clock"  
4 work.

5 22. DEFENDANTS' actions described above and below violate the law, including, but  
6 not limited to: California Labor Code §§ 201-203, 204, 216, 225.5, 226, 226.3, 226.7, 512, 558,  
7 1194 and 2802, the applicable Industrial Welfare Commission Wage Orders, and Business and  
8 Profession Code § 17200.

9 23. As a result of DEFENDANTS' illegal practices, PLAINTIFF and the members of  
10 PLAINTIFF CLASS were not and are not paid all wages that they earned, and suffered damages  
11 resulting from these illegal practices.

12  
13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PAY OVERTIME COMPENSATION AND MINIMUM WAGE**

15 **(CALIFORNIA LABOR CODE §§ 1194, 1197)**

16 24. PLAINTIFF realleges and incorporates by reference as though fully set forth herein  
17 the allegations contained in paragraphs 1 to 23.

18 25. DEFENDANTS required PLAINTIFF and members of the PLAINTIFF CLASS to  
19 work more than eight (8) hours per day, and/or forty (40) hours per week, and/or for work on a  
20 seventh day in any one work week.

21 26. DEFENDANTS failed to fully compensate PLAINTIFF and members of the  
22 PLAINTIFF CLASS for all wages they earned. As a result of DEFENDANTS' knowing and  
23 intentional policies and procedures, PLAINTIFF and members of the PLAINTIFF CLASS were not  
24 properly compensated for all hours worked, and overtime work.

25 27. As a proximate cause of the aforementioned violations, PLAINTIFF and the  
26 PLAINTIFF CLASS have been damaged in an amount according to proof at time of trial, but in an  
27 amount in excess of the jurisdiction of this Court. PLAINTIFF and the PLAINTIFF CLASS are  
28 entitled to recover the unpaid balance of wages owed, penalties, including penalties available  
pursuant to California Labor Code Section 558, plus interest, reasonable attorney fees and costs of

1 suit according to the mandate of California Labor Code Section 1194, and 1197 et. seq.

2  
3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MEAL AND REST PERIOD COMPENSATION**

5 **(CALIFORNIA LABOR CODE SECTION 226.7 AND 512)**

6 28. PLAINTIFF realleges and incorporates, by reference, as though fully set forth herein,  
7 the allegations contained in paragraphs 1 to 27.

8 29. DEFENDANTS failed to provide PLAINTIFF and members of the PLAINTIFF  
9 CLASS with uninterrupted, work-free 30-minute meal periods for shifts in excess of five (5) hours  
10 worked and failed to compensate them for these missed meal periods as required by law.

11 30. Moreover, throughout PLAINTIFF'S and members of the PLAINTIFF CLASS'  
12 employment, DEFENDANTS failed to provide PLAINTIFF and members of the PLAINTIFF  
13 CLASS with rest periods for shifts in excess of four (4) hours as required by law and failed to  
14 compensate them for missed rest periods.

15 31. As a proximate cause of the aforementioned violations, PLAINTIFFS and members  
16 of the PLAINTIFF CLASS have been damaged in an amount according to proof at time of trial, but  
17 in an amount in excess of the jurisdiction of this Court. PLAINTIFFS and the PLAINTIFF CLASS  
18 are entitled to recover the unpaid balance of wages owed, penalties, including penalties available  
19 pursuant to California Labor Code Sections 226, 226.7, 558, plus interest, reasonable attorney fees  
20 and costs of suit according to the mandate of California Labor Code, Section 1194, et. seq.

21  
22 **THIRD CAUSE OF ACTION**

23 **REQUIRING EMPLOYEES TO PAY FOR REQUIRED AND NECESSARY**

24 **EXPENDITURES**

25 **(VIOLATION OF CALIFORNIA LABOR CODE § 2802)**

26 32. PLAINTIFF realleges and incorporates, by reference, as though fully set forth herein,  
27 the allegations contained in paragraphs 1 to 31.

28 33. Pursuant to Labor Code § 2802, an employer must indemnify his or her employee for  
all necessary expenditures or losses incurred by the employee in direct consequence of the discharge

1 of his or her duties.

2 34. As described above, PLAINTIFF is informed and believes and thereon alleges that  
3 PLAINTIFF and members of the PLAINTIFF CLASS were forced to make expenditures to  
4 purchase materials required for work, such as gas mileage, tape and screwdrivers. DEFENDANTS,  
5 however, failed to indemnify and reimburse PLAINTIFF and members of the PLAINTIFF CLASS  
6 as an employer is required to do.

7 35. PLAINTIFF and members the PLAINTIFF CLASS suffered losses within the  
8 meaning of Labor Code § 2802 by means of the conduct alleged herein. In violation of state law,  
9 DEFENDANTS have knowingly and willfully refused to perform their obligations and failed to  
10 properly indemnify and reimburse PLAINTIFF and members of PLAINTIFF CLASS.

11 36. As a proximate result of the aforementioned violations, PLAINTIFFS have been  
12 damaged in an amount according to proof at time of trial, but in an amount in excess of the  
13 jurisdiction of this Court. Therefore, all members of the PLAINTIFF CLASS, including  
14 PLAINTIFF are entitled to reimbursement of such expenses, plus interest, penalties, attorney's fees,  
15 and costs of suit.

16  
17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

19 **(CAL. LABOR CODE § 226)**

20 37. PLAINTIFF realleges and incorporates, by reference, as though fully set forth herein,  
21 the allegations contained in paragraphs 1 to 36.

22 38. DEFENDANTS failed to provide PLAINTIFF and members of the PLAINTIFF  
23 CLASS with accurate itemized statements as required by Cal. Labor Code § 226. In particular,  
24 PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS did not state on  
25 PLAINTIFF'S and members of the PLAINTIFF CLASS' payroll records the correct amount of hours  
26 that they had worked "off the clock," and the applicable hourly rates for such "off the clock" work.

27 39. As a direct result of DEFENDANTS' failure to provide accurate itemized  
28 statements, PLAINTIFF and members of the PLAINTIFF CLASS were not paid compensation to  
which they were legally entitled for "off the clock" hours worked, overtime hours worked, and

1  
2 hours worked during meal and rest periods.

3 40. As a result, PLAINTIFF and members of the PLAINTIFF CLASS are entitled to  
4 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a  
5 violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent  
6 pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and are entitled to  
7 an award of costs and reasonable attorney fees.

8  
9 **FIFTH CAUSE OF ACTION**  
10 **WAITING TIME PENALTIES**  
11 **(CALIFORNIA LABOR CODE § 203)**

12 41. PLAINTIFF realleges and incorporates, by reference, as though fully set forth herein,  
13 the allegations contained in paragraphs 1 to 40.

14 42. Pursuant to California Labor Code § 201, if an employer discharges an employee, the  
15 wages earned and unpaid at the time of the discharge are due and payable immediately. Pursuant to  
16 California Labor Code § 202, if an employee quits his or her employment, the wages earned and  
17 unpaid at the time of the discharge are due and payable within seventy-two (72) hours of the  
18 resignation.

19 43. PLAINTIFF and members of the PLAINTIFF CLASS were either terminated by  
20 DEFENDANTS or have resigned from their employment with DEFENDANTS. To this day,  
21 neither PLAINTIFF nor members of the PLAINTIFF CLASS have received the wages and other  
22 compensation they rightfully earned.

23 44. DEFENDANTS, and each of them, willfully failed to pay PLAINTIFF and members  
24 of the PLAINTIFF CLASS all wages earned, including overtime compensation, in a timely manner,  
25 as required by California Labor Code § 203. PLAINTIFF therefore requests restitution and  
26 penalties as provided by California Labor Code § 203.

27 \\\

28 \\\

1 **SIXTH CAUSE OF ACTION**

2 **(VIOLATION OF LABOR CODE SECTION 204)**

3 45. PLAINTIFF realleges and incorporates, by reference, as though fully set forth herein,  
4 the allegations contained in paragraphs 1 to 44.

5 46. During the Class Period, Labor Code § 204 applied to DEFENDANTS' employment  
6 of PLAINTIFF and the PLAINTIFF CLASS. At all times relevant hereto, Labor Code section 204  
7 provided that all wages earned by any employee, such as PLAINTIFF and members of the  
8 PLAINTIFF CLASS, in any employment between the 1<sup>st</sup> and 15<sup>th</sup> days, inclusive, of any calendar  
9 month, other than those wages due upon termination of an employee, are due and payable between  
10 the 16<sup>th</sup> and 26<sup>th</sup> day of the month during which the work was performed. Furthermore, at all times  
11 relevant hereto, Labor Code section 204 provided that all wages earned by any employee, such as  
12 PLAINTIFF and members of the PLAINTIFF CLASS, in any employment between the 16<sup>th</sup> and the  
13 last day, inclusive, of any calendar month, other than those wages due upon termination of an  
14 employee, are due and payable between the 1<sup>st</sup> and 10<sup>th</sup> day of the following month.

15 47. During the Class Period, DEFENDANTS failed to pay PLAINTIFF and members of  
16 the PLAINTIFF CLASS wages for all hours worked.

17 48. During the class period, DEFENDANTS failed to pay PLAINTIFF and members of  
18 the PLAINTIFF CLASS for all wages earned and therefore violated Labor Code section 204.  
19 Accordingly, PLAINTIFF and members of the PLAINTIFF CLASS are entitled to recover all  
20 damages, penalties and other remedies available for violation of Labor Code section 204.

21  
22 **SEVENTH CAUSE OF ACTION**

23 **UNFAIR BUSINESS PRACTICES**

24 **(CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200, ET SEQ.)**

25 49. PLAINTIFF realleges and incorporates, by reference, as though fully set forth herein,  
26 the allegations contained in paragraphs 1 to 48.

27 50. DEFENDANTS' violations of the employment laws and regulations, as alleged  
28 herein, include, among other things: (1) DEFENDANTS' failure to pay all wages, including  
overtime wages, earned by PLAINTIFF and the PLAINTIFF CLASS pursuant to DEFENDANTS'

1 illegal pay practices described above; (2) DEFENDANTS' violation of reporting time pay  
2 requirements; (3) DEFENDANTS' failure to provide meal and rest breaks; (4) DEFENDANTS'  
3 failure to reimburse PLAINTIFF and members of the PLAINTIFF CLASS for expenditures and/or  
4 losses; and (5) DEFENDANTS' wrongful withholding and conversion of wages and compensation  
5 due to PLAINTIFF and the PLAINTIFF CLASS. The aforementioned violations constitute  
6 unfairbusiness practices in violation of the Unfair Competition Law, California Business &  
7 Professions Code Section 17200, et seq.

8 51. As a result of DEFENDANTS' unfair business practices, DEFENDANTS have  
9 reaped unfair benefits and improper profits at the expense of PLAINTIFF, the PLAINTIFF CLASS  
10 and members of the public. DEFENDANTS should be made to restore such monies to PLAINTIFF  
11 and the PLAINTIFF CLASS.

12 52. DEFENDANTS' unfair business practices entitle PLAINTIFF and the PLAINTIFF  
13 CLASS to seek preliminary and permanent injunctive relief, including but not limited to, orders that  
14 the DEFENDANTS account for and restore to PLAINTIFF and the PLAINTIFF CLASS the  
15 compensation unlawfully withheld from them.

16  
17 **EIGHTH CAUSE OF ACTION**

18 **PRIVATE ATTORNEY GENERAL ACT**

19 **(VIOLATION OF LABOR CODE §§ 201-203, 204, 210, 216, 225.5, 226.3, 450, 512, 558,**  
20 **1194)**

21 53. PLAINTIFF hereby realleges and incorporates by reference the allegations contained  
22 in the paragraphs 1 through 52 above, as if fully set forth herein.

23 54. PLAINTIFF, individually and on behalf of both the class and the general public  
24 allege that on or about December 5, 2011, she provided written notice to the Labor and Workforce  
25 Development Agency ("LWDA") and DEFENDANTS of the specific violations of the California  
26 Labor Code DEFENDANTS have violated and continue to violate, including Labor Code Sections  
27 §§ 201-204, 216, 221, 225.5, 226, 226.3, 226.7, 512, 558, 1194, and 2802.

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1           55.       On or about January 5, 2012, the LWDA responded to the aforesaid written notice of  
2 plaintiff and stated that they do not intend to investigate the violations alleged in plaintiff's written  
3 notice.

4           56.       As a result, PLAINTIFF has exhausted all administrative procedures required of her  
5 under Labor Code §§ 2698, 2699 and 2699.3, and as a result, are justified as a matter of right in  
6 bringing forward this cause of action.

7           57.       As a result of the acts alleged above, PLAINTIFF seeks penalties under Labor Code  
8 §§ 2698 and 2699 because of DEFENDANTS' violations of numerous provisions of the California  
9 Labor Code.

10          58.       Pursuant to California Labor Code § 2699, PLAINTIFF should be awarded  
11 twenty-five percent (25%) of all penalties due under California law, including attorneys' fees and  
12 costs.

13   **PRAYER FOR RELIEF**

14       **WHEREFORE**, PLAINTIFF prays judgment against defendants, and each of them, as  
15 follows:

- 16       1.       That the Court determine that Causes of Action 1-7 may be maintained as a class  
17             action and for Cause of Action 8 to be maintained as a representative action;
- 18       2.       For injunctive relief to stop DEFENDANTS' illegal practices described above,  
19             including, but not limited to, the failure to pay wages, including overtime wages, the  
20             failure to provide meal and rest breaks, the failure to provide accurate itemized wage  
21             statements, and the failure to reimburse expenses;
- 22       3.       For general and compensatory damages, according to proof;
- 23       4.       For restitution of all monies due to PLAINTIFF and the PLAINTIFF CLASS and  
24             disgorgement of profits from the unlawful business practices of DEFENDANTS;
- 25       5.       For waiting time penalties pursuant to California Labor Code §§ 203;
- 26       6.       For penalties pursuant to California Labor Code §§ 226, 558 and all other applicable  
27             Labor Code and/or Employment Laws and Regulations;
- 28       7.       For interest accrued to date;
8.       For costs of the suit incurred herein;



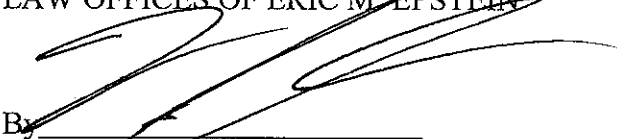
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- 9. For attorney fees and costs pursuant to California Labor Code §§'s 218.5, 226 and 1194; and
- 10. For such other and further relief that the Court may deem just and proper.

DATED: February 3, 2012

SCHONBRUN DESIMONE SEPLOW  
HARRIS HOFFMAN & HARRISON, LLP

LAW OFFICES OF ERIC M. EPSTEIN



By \_\_\_\_\_  
V. James DeSimone  
Genie Harrison  
Eric M. Epstein  
Courtney Abrams

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**DEMAND FOR JURY TRIAL**

Plaintiff, on behalf of herself and similarly situated employees, hereby demands a jury trial on all causes of action and claims with respect to which they have a right to jury trial.

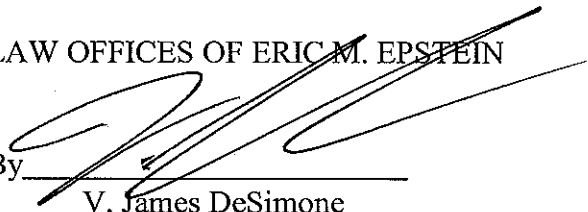
Respectfully submitted,

DATED: February 3, 2012

SCHONBRUN DESIMONE SEPLOW  
HARRIS HOFFMAN & HARRISON, LLP

LAW OFFICES OF ERIC M. EPSTEIN

By



V. James DeSimone  
Genie Harrison  
Eric M. Epstein  
Courtney Abrams