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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF LOS ANGELES**

19 CHRIS SHOFF AND RICHARD
20 TRAISTER,
21 Plaintiffs,
22 vs.

23 AT&T, SBC Services, Inc., Southwestern
24 Bell, Yellow Pages, Inc., IYP Group,
25 LLC, Yellow Pages.com LLC and/or
26 DOES 1 through inclusive

27 Defendants.
28

Case No: BC 367 856

**FIRST AMENDED
COMPLAINT FOR DAMAGES**

CLASS ACTION (Plaintiff Class)
(California Code of Civil Procedure
§382)

1. **FAILURE TO PAY
OVERTIME
COMPENSATION (CAL.
LABOR CODE § 1194)**
2. **FAILURE TO PROVIDE
MEAL AND REST PERIODS
(CAL. LABOR CODE § 226.7)**
3. **WAITING TIME PENALTIES
(CAL. LABOR. CODE § 203)**
4. **CONVERSION (CAL. CIVIL
CODE §§ 3336, 3294)**
5. **UNFAIR BUSINESS
PRACTICES (CALIFORNIA
BUSINESS AND
PROFESSIONS CODE §
17200 ET SEQ.)**

DEMAND FOR JURY TRIAL

1 Plaintiffs CHRIS SHOFF AND RICHARD TRAISTER (“PLAINTIFFS”), as individuals,
2 and on behalf of themselves, all others similarly situated, and the general public,
3 complain and allege on information and belief the following against AT&T, SBC
4 SERVICES, INC., SOUTHWESTERN BELL, YELLOW PAGES, INC., IYP GROUP,
5 YELLOWPAGES.COM LLC and DOES 1 through 25 (“DEFENDANTS”):

6
7 **JURISDICTION AND VENUE**

8 1a. The Court has personal jurisdiction over DEFENDANTS because they are
9 residents of and/or doing business in the state of California.

10 1b. Venue is proper in this Court in accordance with Section 395(a) of the
11 California Code of Civil Procedure because DEFENDANTS, or some of them, reside in
12 Los Angeles County. Moreover, DEFENDANTS employed PLAINTIFFS in Los
13 Angeles County and the harms occurred in Los Angeles County.

14
15 **PARTIES**

16 2. PLAINTIFFS CHRIS SHOFF AND RICHARD TRAISTER were at all
17 relevant times were non-exempt employees of DEFENDANTS and residents of the
18 County of Los Angeles, State of California. Plaintiffs began employment with
19 Defendants, during the past four years, whereby plaintiffs agreed to certain duties in
20 exchange for wages to be paid by said defendants. Plaintiffs job duties consisted
21 primarily of providing computer support, repair, and technical services to
22 DEFENDANTS. Plaintiffs performed all obligations as required during employment.

23 3. DEFENDANTS AT&T, SBC SERVICES, INC. SOUTHWESTERN
24 BELL, YELLOW PAGES, INC., IYP GROUP, YELLOWPAGES.COM LLC and
25 DOES 1 through 25, are and at all relevant times were California corporations conducting
26 business in the County of Los Angeles, State of California. DOES 1 through 10, and each
27 of them, are, and at all relevant times mentioned herein were, corporations or other
28 business entities conducting business in the State of California.

1 inspection of the personnel records and other documents maintained by DEFENDANTS.

2 8. There are common questions of law and fact as to the class which
3 predominate over questions affecting only individual members including, without,
4 limitation:

5 A. Whether DEFENDANTS denied the PLAINTIFF CLASS overtime
6 pay to which they were entitled pursuant to the California Labor Code, the California
7 Industrial Welfare Commission's ("IWC") Wage Orders, and all other applicable
8 Employment Laws and Regulations.

9 B. Whether DEFENDANTS denied the PLAINTIFF CLASS meal and
10 rest breaks to which they were entitled by law and failed to compensate the PLAINTIFF
11 CLASS for missed meal and rest breaks;

12 C. Whether DEFENDANTS engaged in unfair business practices;

13 D. Whether DEFENDANTS acted with, malice, oppression and fraud
14 thereby justifying the award of punitive and exemplary damages.

15 E. The effect upon and the extent of damages suffered by the
16 PLAINTIFF CLASS and the appropriate amount of compensation.

17 9. The claims of PLAINTIFFS pled as class action claims are typical of the
18 claims of all members of the class as they arise out of the same course of conduct and are
19 predicated on the same violation(s) of the law. PLAINTIFFS, as representative parties,
20 will fairly and adequately protect the interests of the class by vigorously pursuing this suit
21 through their attorneys who are skilled and experienced in handling matters of this type.

22 10. The nature of this action and the nature of the laws available to the
23 PLAINTIFF CLASS make use of the class action format a particularly efficient and
24 appropriate procedure to afford relief to the PLAINTIFF CLASS. Further, this case
25 involves a corporate employer and a large number of individual employees possessing
26 claims with common issues of law and fact. If each employee were required to file an
27 individual lawsuit, the corporate defendants would necessarily gain an unconscionable
28 advantage since it would be able to exploit and overwhelm the limited resources of each

1 individual plaintiff with its vastly superior financial and legal resources. Requiring each
2 class member to pursue an individual remedy would also discourage the assertion of
3 lawful claims by employees who would be disinclined to pursue an action against their
4 present and/or former employer for an appreciable and justifiable fear of retaliation and
5 permanent damage to their careers at present and/or subsequent employment. Proof of a
6 common business practice or factual pattern, of which the named plaintiff experienced, is
7 representative of the class mentioned herein and will establish the right of each of the
8 members of the class to recovery on the claims alleged herein.

9 11. The prosecution of separate actions by the individual class members, even if
10 possible, would create: (a) a substantial risk of inconvenient or varying verdicts or
11 adjudications with respect to the individual class members against the defendants herein;
12 and/or (b) legal determinations with respect to individual class members which would, as
13 a practical matter, be dispositive of the other class members not parties to the
14 adjudications or which would substantially impair or impede the ability of class members
15 to protect their interests. Further, the claims of the individual members of the class are
16 not sufficiently large to warrant vigorous individual prosecution considering all of the
17 concomitant costs and expenses attending thereto. PLAINTIFFS are also unaware of any
18 difficulties that are likely to be encountered in the management of this action that would
19 preclude its maintenance as a class action.

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

22 12. PLAINTIFFS were non-exempt employees of DEFENDANTS.
23 DEFENDANTS routinely required PLAINTIFFS to work more than eight (8) hours per
24 day, twelve (12) hours per day and/or forty (40) hours per week. However, PLAINTIFFS
25 did not receive overtime compensation for the hours they worked in excess of eight (8)
26 hours per day, twelve (12) hours per day and/or forty (40) hours per week.

27 13. In addition, PLAINTIFFS were not provided with an uninterrupted, work-
28 free 30-minute meal periods for shifts in excess of five (5) hours and were not

1 compensated for missed meal periods. DEFENDANTS also failed to provide
2 PLAINTIFFS with rest breaks for shifts in excess of four (4) hours throughout their
3 employment with DEFENDANTS.

4 14. PLAINTIFFS are informed and believe and thereon allege that the
5 PLAINTIFF CLASS was subjected to the same unlawful practices as PLAINTIFFS. Like
6 PLAINTIFFS, DEFENDANTS routinely required members of the PLAINTIFF CLASS
7 to work more than eight (8) hours per day, twelve (12) hours per day, and/or forty (40)
8 hours per week. However, members of the PLAINTIFF CLASS did not receive the
9 overtime wages that they earned. PLAINTIFFS are informed and believe and thereon
10 allege that the failure of DEFENDANTS to pay PLAINTIFFS and the PLAINTIFF
11 CLASS for overtime work was willful, purposeful, and unlawful and done in accordance
12 with the policies and practices of DEFENDANTS' operations.

13 15. PLAINTIFFS are further informed and believe and thereon allege that
14 members of the PLAINTIFF CLASS were also not provided with uninterrupted, work-
15 free 30-minute meal periods for shifts in excess of five (5) hours and were not
16 compensated for missed meal periods. PLAINTIFFS are informed and believe and
17 thereon allege that the failure of DEFENDANTS to provide PLAINTIFFS and the
18 PLAINTIFF CLASS with uninterrupted, work-free 30-minute meal periods for shifts in
19 excess of five (5) hours was willful, purposeful, and unlawful and done in accordance
20 with the policies and practices of DEFENDANTS' operations.

21 16. In addition, PLAINTIFFS are informed and believe and thereon allege that
22 members of the PLAINTIFF CLASS were also not provided with rest breaks for shifts in
23 excess of four (4) hours. PLAINTIFFS are informed and believe and thereon allege that
24 the failure of DEFENDANTS to provide PLAINTIFFS and the PLAINTIFF CLASS with
25 rest breaks for shifts in excess of four (4) hours was willful, purposeful, and unlawful and
26 done in accordance with the policies and practices of DEFENDANTS' operations.

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1 **FIRST CAUSE OF ACTION**

2 FAILURE TO PAY OVERTIME COMPENSATION

3 (CALIFORNIA LABOR CODE SECTION 1194)

4 By PLAINTIFFS in their individual capacities and in their capacities as representatives of
5 all similarly situated members of the PLAINTIFF CLASS against all Defendants.

6 17. PLAINTIFFS reallege and incorporate, by reference, as though fully set
7 forth herein, the allegations contained in paragraphs 1 to 16.

8 18. DEFENDANTS routinely required PLAINTIFFS and members of the
9 PLAINTIFF CLASS to work more than eight (8) hours per day, twelve (12) hours per
10 day, and/or forty (40) hours per week.

11 19. DEFENDANTS failed to fully compensate PLAINTIFFS and members of
12 the PLAINTIFF CLASS for all overtime wages they earned.

13 20. PLAINTIFFS are informed and believe, and thereon allege that the failure
14 of DEFENDANTS to fully compensate PLAINTIFFS and the PLAINTIFF CLASS for
15 overtime work was willful, purposeful, and unlawful and done in accordance with the
16 policies and practices of DEFENDANTS' operations.

17 21. As a proximate cause of the aforementioned violations, PLAINTIFFS and
18 the PLAINTIFF CLASS has been damaged in an amount according to proof at time of
19 trial, but in an amount in excess of the jurisdiction of this Court. PLAINTIFFS and the
20 PLAINTIFF CLASS are entitled to recover the unpaid balance of wages owed, penalties,
21 including penalties available pursuant to California Labor Code Section 558, plus interest,
22 reasonable attorney fees and costs of suit according to the mandate of *California Labor*
23 *Code, §§ 218. 5 and 1194, et. seq,* and punitive damages for DEFENDANTS' oppressive,
24 malicious, intentional, and fraudulent actions.

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1 **SECOND CAUSE OF ACTION**

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

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

4 By PLAINTIFFS in their individual capacities and in their capacities as representatives of
5 all similarly situated members of the PLAINTIFF CLASS against all Defendants.

6 22. PLAINTIFFS reallege and incorporate, by reference, as though fully set
7 forth herein, the allegations contained in paragraphs 1 to 21.

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

12 24. DEFENDANTS, throughout PLAINTIFFS' employment with
13 DEFENDANTS, failed to give PLAINTIFFS any breaks for shifts in excess of four (4)
14 hours as required by law and failed to compensate them for missed rest breaks.
15 DEFENDANTS also failed to give members of the PLAINTIFF CLASS breaks for shifts
16 in excess of four (4) hours as required by law and failed to compensate them for missed
17 rest breaks.

18 25. PLAINTIFFS are informed and believe, and thereon allege that the failure
19 of DEFENDANTS to provide meal and rest breaks and to compensate PLAINTIFFS and
20 the PLAINTIFF CLASS for these missed meal and rest breaks was willful, purposeful,
21 and unlawful and done in accordance with the policies and practices of DEFENDANTS'
22 operations.

23 26. As a proximate cause of the aforementioned violations, PLAINTIFFS and
24 members of the PLAINTIFF CLASS have been damaged in an amount according to proof
25 at time of trial, but in an amount in excess of the jurisdiction of this Court. PLAINTIFFS
26 and the PLAINTIFF CLASS are entitled to recover the unpaid balance of wages owed,
27 penalties, including penalties available pursuant to California Labor Code Sections 226,
28 226.7, 558, plus interest, reasonable attorney fees and costs of suit according to the

1 mandate of *California Labor Code*, §§ 218.5 and 1194, et. seq. and punitive damages for
2 DEFENDANTS' oppressive, malicious, intentional, and fraudulent actions.

3
4 **THIRD CAUSE OF ACTION**

5 (WAITING TIME PENALTIES PURSUANT TO CALIFORNIA LABOR CODE § 203)

6 27. PLAINTIFFS reallege and incorporate, by reference, as though fully set
7 forth herein, the allegations contained in paragraphs 1 to 26.

8 28. Pursuant to California Labor Code § 201, if an employer discharges an
9 employee, the wages earned and unpaid at the time of the discharge are due and payable
10 immediately. Pursuant to California Labor Code § 202, if an employee quits her
11 employment, the wages earned and unpaid at the time of the discharge are due and
12 payable within 72 hours.

13 29. PLAINTIFFS are informed and believe that members of the PLAINTIFF
14 CLASS have resigned or were terminated from their employment with DEFENDANTS
15 and have not received the overtime compensation and other wages they rightfully earned.

16 30. DEFENDANTS, and each of them, willfully refused and continue to refuse
17 to pay members of the PLAINTIFF CLASS all wages earned, including overtime and
18 compensation for missed meal and rest breaks, in a timely manner, as required by
19 California Labor Code § 203. PLAINTIFFS therefore request restitution and penalties as
20 provided by California Labor Code § 203.

21
22 **FOURTH CAUSE OF ACTION**

23 **CONVERSION**

24 (CALIFORNIA CIVIL CODE SECTIONS 3336 AND 3294)

25 By PLAINTIFFS in their individual capacities and in their capacities as representatives of
26 all similarly situated members of the PLAINTIFF CLASS against all Defendants.

27 31. PLAINTIFFS reallege and incorporate, by reference, as though fully set
28 forth herein, the allegations contained in paragraphs 1 to 30.

1 32. As alleged above, DEFENDANTS wrongfully withheld earned wages from
2 PLAINTIFFS and members of the PLAINTIFF CLASS. In particular, DEFENDANTS
3 failed to pay PLAINTIFFS and members of the PLAINTIFF CLASS all overtime wages
4 they earned and failed to compensate them for missed meal and rest breaks and other
5 compensation owed to pursuant to the applicable Employment Laws and Regulations.

6 33. At all relevant times, DEFENDANTS had and continue to have a legal
7 obligation imposed by statute to pay PLAINTIFFS and members of the PLAINTIFF
8 CLASS all earned wages and other compensation due to them. Such wages and
9 compensation belonged to PLAINTIFFS and members of the PLAINTIFF CLASS at the
10 time the labor and services were provided to DEFENDANTS, and accordingly, such
11 wages and compensation are the property of PLAINTIFFS and members of the
12 PLAINTIFF CLASS, not DEFENDANTS.

13 34. DEFENDANTS knowingly and intentionally failed to pay PLAINTIFFS
14 and members of the PLAINTIFF CLASS all overtime compensation for overtime hours
15 worked, knowingly and intentionally failed to compensate PLAINTIFFS and members of
16 the PLAINTIFF CLASS for missed meal and rest breaks, and knowingly and
17 intentionally failed to provide other compensation due to PLAINTIFFS and members of
18 the PLAINTIFF CLASS. Instead, DEFENDANTS converted PLAINTIFFS' and
19 members of the PLAINTIFF CLASS' rightfully earned wages and converted them to
20 DEFENDANTS' own use and benefit.

21 35. PLAINTIFFS and members of the PLAINTIFF CLASS have been injured
22 by DEFENDANTS' intentional conversion of such wages and compensation.
23 PLAINTIFFS and the PLAINTIFF CLASS are entitled to immediate possession of all
24 amounts converted by DEFENDANTS, with interest, as well as any and all profits that
25 DEFENDANTS acquired by their unlawful conversion.

26 36. DEFENDANTS' actions constituting conversion were oppressive,
27 malicious, and fraudulent, and were concealed by DEFENDANTS, and each of them,
28 from named PLAINTIFFS and PLAINTIFF CLASS as hereinbefore alleged.

1 PLAINTIFFS and members of the PLAINTIFF CLASS have been injured by
2 DEFENDANTS' oppressive, malicious, intentional and fraudulent actions, entitling
3 PLAINTIFFS and the PLAINTIFF CLASS to punitive and exemplary damages.

4
5 **FIFTH CAUSE OF ACTION**

6 **UNFAIR COMPETITION AND BUSINESS PRACTICES**

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

8 By PLAINTIFFS in their individual capacity and in their capacity as a representative of
9 all similarly situated members of the PLAINTIFF CLASS against all Defendants.

10 37. PLAINTIFFS reallege and incorporate, by reference, as though fully set
11 forth herein, the allegations contained in paragraphs 1 to 36.

12 38. DEFENDANTS' violations of the Employment Laws and Regulations, as
13 alleged herein, include: (1) DEFENDANTS' failure and refusal to pay all overtime wages
14 earned by PLAINTIFFS and the PLAINTIFF CLASS pursuant to DEFENDANTS' illegal
15 pay practices described above; (2) DEFENDANTS' failure to provide meal and rest
16 breaks to PLAINTIFFS and members of the PLAINTIFF CLASS and to compensate
17 them for missed meal and rest breaks; (3) DEFENDANTS' failure to pay wages due to
18 PLAINTIFFS in a timely manner upon their termination or resignation; (4) and
19 DEFENDANTS' wrongful withholding and conversion of wages and compensation due
20 to PLAINTIFFS and the PLAINTIFF CLASS. The aforementioned violations constitute
21 unfair business practices in violation of the Unfair Competition Law, California Business
22 & Professions Code Section 17200, et seq.

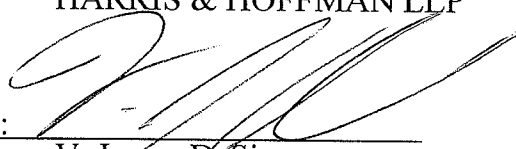
23 39. As a result of DEFENDANTS' unfair business practices, DEFENDANTS
24 have reaped unfair benefits and illegal profits at the expense of PLAINTIFFS, the
25 PLAINTIFF CLASS and members of the public. DEFENDANTS should be made to
26 disgorge their ill-gotten gains and restore such monies to PLAINTIFFS and the
27 PLAINTIFF CLASS.

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- 7. For interest accrued to date;
- 8. For costs of the suit incurred herein;
- 9. For loss of earnings, according to proof;
- 10. For punitive damages and exemplary damages, according to proof;
- 11. For attorney fees and costs pursuant to California Labor Code §§'s 218.5 and 1194; Cal. Code Civ. Pro. § 1021.5 and;
- 12. For such other and further relief that the Court may deem just and proper.

DATED: April 10, 2007

Respectfully submitted,
SCHONBRUN DESIMONE SEPLOW
HARRIS & HOFFMAN LLP

By: _____
V. James DeSimone
Michael Morrison

LAW OFFICES OF THOMAS W. FALVEY

By: _____
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Attorneys for Plaintiffs, CHRIS SHOFF and
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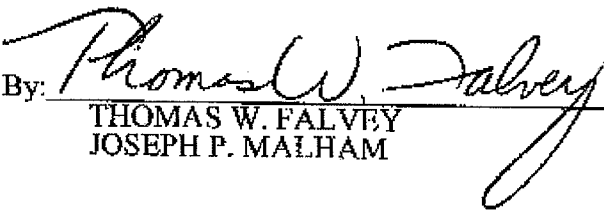
- of DEFENDANTS;
- 5. For waiting time penalties pursuant to California Labor Code § 203;
 - 6. For penalties pursuant to California Labor Code §558, and all other applicable Labor Code Sections, Industrial Wage Orders and/or Employment Laws and Regulations;
 - 7. For interest accrued to date;
 - 8. For costs of the suit incurred herein;
 - 9. For loss of earnings, according to proof;
 - 10. For punitive damages and exemplary damages, according to proof;
 - 11. For attorney fees and costs pursuant to California Labor Code §§'s 218.5 and 1194; Cal. Code Civ. Pro. § 1021.5 and;
 - 12. For such other and further relief that the Court may deem just and proper.

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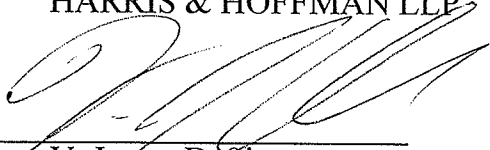
DEMAND FOR JURY TRIAL

PLAINTIFFS and members of the PLAINTIFF CLASS further request a trial by jury on all issues so triable.

DATED: April 10, 2007

Respectfully submitted,

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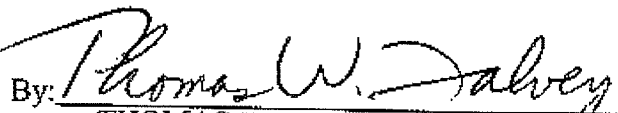
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