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15 ALMA R. CASTELLANOS, on behalf of herself and others similarly situated.

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

18 ALMA R. CASTELLANOS, on behalf of herself
19 and others similarly situated.

20 PLAINTIFF,

21 vs.

22 CONTINENTAL CURRENCY SERVICES,
23 INC., a corporation and DOES 1 to 100,
24 Inclusive.

25 DEFENDANTS.

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

DEC 19 2014

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

Case No.: **BC 5 6 7 3 6 2**

CLASS ACTION

**PLAINTIFF ALMA R. CASTELLANOS'
COMPLAINT FOR DAMAGES AND
RESTITUTION AND FOR:**

1. **FAILURE TO PAY WAGES FOR
WORKDAYS DEFENDANT
FAILED TO PROVIDE AN
ADEQUATE MEAL PERIOD IN
VIOLATION OF LABOR CODE
SECTIONS 226.7 AND 512**
2. **FAILURE TO AUTHORIZE OR
PERMIT REST PERIODS IN
VIOLATION OF LABOR CODE
SECTION 226.7**
3. **FAILURE TO PAY OVERTIME
WAGES FOR DAILY OVERTIME
AND ALL TIME WORKED IN
VIOLATION OF LABOR CODE
SECTIONS 510, 1194, AND 1198**
4. **FAILURE TO PROVIDE
COMPLETE AND ACCURATE
WAGE STATEMENTS IN
VIOLATION OF LABOR CODE
SECTION 226**

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5. FAILURE TO TIMELY PAY ALL EARNED WAGES DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203

6. UNFAIR BUSINESS PRACTICES IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, *et seq.*

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, ALMA R. CASTELLANOS ("Plaintiff"), who alleges and complains against DEFENDANTS CONTINENTAL CURRENCY SERVICES, INC., and DOES 1 to 100, inclusive, (hereinafter, collectively referred to as "Defendants") as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages and interest thereon for unpaid overtime wages, wages to compensate employees for workdays Defendants failed to provide meal periods and rest periods, statutory penalties for failure to provide accurate wage statements, waiting time penalties in the form of continuation wages for failure to timely pay employees, injunctive relief and other equitable relief, reasonable attorney's fees pursuant to Labor Code sections 226(e) and 1194, costs, and interest brought on behalf of Plaintiff and others similarly situated.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff's and the Class Members' claims for unpaid overtime wages, unpaid meal and rest period premium wages, statutory penalties for failure to provide accurate wage statements, waiting time penalties and claims for restitution under Business & Professions Code section 17200 *et seq.* because Defendants operate throughout California and employed Plaintiff in Los Angeles County at 6821 Eastern Avenue, Bell Gardens, California 90201.

III. PARTIES

3. Plaintiff brings this action on behalf of herself and other members of the general public similarly-situated. The named Plaintiff, and the class of persons on whose behalf this action is filed, are current, former and/or future employees of Defendants who worked as non-exempt

1 hourly, employees. At all times mentioned herein, the currently named Plaintiff is and was a
2 resident of California and was employed in a non-exempt position by Defendants during the liability
3 period as a cashier.

4 4. Plaintiff is informed and believes and thereon alleges that Defendant
5 CONTINENTAL CURRENCY is authorized to do business within the State of California and is
6 doing business in the State of California and/or that Defendants DOES 1-100 are, and at all times
7 relevant hereto were, officers, directors, or shareholders of Defendant CONTINENTAL
8 CURRENCY who were acting on behalf of Defendant CONTINENTAL CURRENCY in the
9 establishment of, or ratification, of, the aforementioned illegal payroll practices or policies.
10 Defendant CONTINENTAL CURRENCY operates throughout Los Angeles County and Orange
11 County and employed Plaintiff in Los Angeles County at 6821 Eastern Avenue, Bell Gardens,
12 California 90201.

13 5. Defendants employed Plaintiff as an hourly non-exempt employee from on or about
14 1988, through on or about January 10, 2014.

15 6. Plaintiff is informed and believes and on that basis alleges that CONTINENTAL
16 CURRENCY employed Plaintiff and other hourly non-exempt employees throughout the State of
17 California.

18 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
19 through 50 are corporations, or are other business entities or organizations of a nature unknown to
20 Plaintiff.

21 8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
22 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
23 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
24 supervisor, independent contractor and/or employee of each Defendant and had operational control
25 for Defendants.

26 9. Plaintiff is unaware of the true names of Defendants Does 1 through 100. Plaintiff
27 sues said defendants by said fictitious names, and will amend this complaint when the true names
28 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as

1 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
2 named defendants is in some manner responsible for the events and allegations set forth in this
3 complaint.

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

17 11. At all times mentioned herein, each Defendant was the co-conspirator, agent, servant,
18 employee, and/or joint venturer of each of the other defendants and was acting within the course and
19 scope of said conspiracy, agency, employment, and/or joint venture and with the permission and
20 consent of each of the other Defendants.

21 12. Plaintiff makes the allegations in this complaint without any admission that, as to any
22 particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff
23 reserves all of Plaintiff rights to plead in the alternative.

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

25 13. Pursuant to the applicable Industrial Welfare Commission Wage Order ("Wage
26 Order"), codified at California Code of Regulations title 8, section 11040, Defendants are employers
27 of Plaintiff within the meaning of the applicable Wage Order and applicable California Labor Code
28

1 sections. Therefore, each of these Defendants is jointly and severally liable for the wrongs
2 complained of herein in violation of the Wage Order and the California Labor Code.

3 14. **Failure to pay non-exempt employees wages to compensate them for workdays**
4 **Defendants failed to provide adequate meal periods:** Defendants often employ non-exempt
5 employees, including the named Plaintiff and all others similarly-situated for shifts longer than five
6 hours in length.

7 15. California law requires an employer to provide an employee an uninterrupted meal
8 period of no less than 30-minutes in which the employee is relieved of all duties and the employer
9 relinquishes control over the employee's activities prior to the employee's sixth hour of work. Cal.
10 Lab. Code §§ 226.7, 512; Wage Order §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53
11 Cal.4th 1004. If the employee is not relieved of all duty during a meal period, the meal period shall
12 be considered an "on duty" meal period and counted as time worked. *Id.* A paid "on duty" meal
13 period is only permitted when: (1) the nature of the work prevents an employee from being relieved
14 of all duty; and (2) the parties have a written agreement agreeing to "on duty" meal periods. *Id.*

15 16. If the employee is not free to leave the work premises or worksite during the meal
16 period, even if the employee is relieved of all other duty during the meal period, the employee still is
17 subject to the employer's control and the meal period is counted as time worked. *Id.*

18 17. If an employer fails to provide an employee a meal period in accordance with the
19 law, the employer must pay the employee one hour of pay at the employee's regular rate of pay for
20 each work day that a legally required meal period was not provided or was not duty-free. *Id.*

21 18. Plaintiff and similarly situated employees would work on workdays in shifts long
22 enough to entitle them to meal periods under California law. Despite that California law requires
23 employers to provide employees uninterrupted, duty free meal periods of not less than 30 minutes.
24 Instead, Defendants employed a policy and procedure which required Plaintiff and similarly situated
25 employees to take "on duty" meal periods where they were not relieved of all duties. The nature of
26 the job did not prevent the employee from being relieved of all duty and Defendants did not have a
27 valid written agreement permitting "on duty" meal periods.

28 ///

1 19. Defendants failed to count Plaintiff and similarly situated employees' "on duty" meal
2 periods as hours worked. In addition, Defendants failed to provide meal period premium wages to
3 Plaintiff and other similarly situated employees to compensate them for workdays they did not
4 receive a legally required, duty free meal period of not less than thirty minutes. Defendants
5 employed policies and procedures which ensured Defendants would not receive legally required
6 meal periods. Defendants employed policies and procedures which ensured employees did not
7 receive meal period premium wages to compensate them for workdays that they did not receive all
8 legally required meal periods. The foregoing practices resulted in Plaintiff and all other similarly
9 situated employees not receiving credit for hours worked during "on duty" meal periods and not
10 receiving meal period premium wages to compensate them for workdays which Defendants did not
11 provide them with duty free meal periods of no less than 30 minutes in compliance with California
12 law.

13 20. **Failure to pay non-exempt employees wages to compensate them for workdays**
14 **Defendants failed to provide required rest periods:** Defendants often employed non-exempt
15 employees, including Plaintiff and all others similarly situated, for shifts at least 3.5 hours in length.

16 21. California law requires an employer to provide an employee a rest period of ten (10)
17 net minutes for every four hours worked, "which insofar as practicable shall be in the middle of
18 each work period." Cal. Lab. Code §226.7; Wage Order §12. Thus, employees are entitled to 10
19 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts between
20 six and ten hours in length, 30 minutes for shifts between 10 and 14 hours in length, and so on. *See*
21 *Brinker, supra*.

22 22. If the employer fails to provide a required rest period, the employer must pay the
23 employee one hour of pay at the employee's regular rate of compensation for each work day the
24 employer did not provide all legally required rest periods. *Id.*

25 23. Plaintiff and similarly situated employees would work on workdays in shifts long
26 enough to entitle them to rest periods under California law. Despite that California law requires
27 employers to provide employees with duty free rest periods; Defendants failed to provide duty free
28 rest periods to Plaintiff and other similarly situated employees in compliance with the law.

1 Defendants also failed to provide wages to Plaintiff and similarly situated employees to compensate
2 them for workdays they did not receive a legally required rest period.

3 24. Defendants employed policies and procedures which did not authorize and did not
4 provide for rest periods. Defendants' policies and procedures did not pay employees wages to
5 compensate them for workdays that they did not receive all legally required rest periods. This
6 practice resulted in Plaintiff and all other similarly situated employees not receiving wages to
7 compensate them for workdays which Defendants did not provide them with rest periods in
8 compliance with California law.

9 25. **Failure to pay wages for all hours worked at the employee's overtime rate of**
10 **pay:** Defendants employed a policy and procedure which would require employees to take "on duty"
11 meal periods in which they were not relieved of all duties. The nature of the job did not prevent
12 Plaintiff and similarly situated employees from being relieved of all duty during meal periods and
13 Defendants did not have a valid written agreement permitting "on duty" meal periods. Despite the
14 fact that Defendants' policies and procedures required Plaintiff and others similarly situated to take
15 "on duty" meal periods, Defendants required Plaintiff and those similarly situated to punch out for
16 their "on duty" meal periods. Defendants did not count Plaintiff and similarly situated employees'
17 "on duty" meal periods as hours worked. This resulted in time each work day which Plaintiff and
18 similarly situated employees were under control of Defendants but were not compensated.

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

22 Any work in excess of eight hours in one workday and any work in excess of 40
23 hours in any one workweek and the first eight hours worked on the seventh day of
24 work in any one workweek shall be compensated at the rate of no less than one
25 and one-half times the regular rate of pay for an employee. Any work in excess of
26 12 hours in one day shall be compensated at the rate of no less than twice the
27 regular rate of pay for an employee. In addition, any work in excess of eight hours
28 on any seventh day of a workweek shall be compensated at the rate of no less than
twice the regular rate of pay of an employee.

(Lab. Code §510.)

1 27. Despite that California law requires employers to pay employees for all hours worked
2 and at a higher rate of pay when those hours fall during work periods in excess of 8 hours in a
3 workday and 40 hours in a workweek; Defendants would fail to pay employees wages for their “on
4 duty” meal periods which Plaintiff and similarly situated employees were under control of
5 Defendants. To the extent Plaintiff and similarly situated employees had worked 8 hours in the day
6 and on workweeks they had already worked 40 hours in a workweek excluding their “on duty” meal
7 periods, they should have been paid overtime for their unpaid “on duty” meal period time. This
8 resulted in non-exempt employees working time which should have been paid at the legal overtime
9 rate, but was not paid any wages in violation of Labor Code sections 510, 1194, and the Wage
10 Orders.

11 28. **Pay Stub Violations:** California Labor Code section 226(a) provides (inter alia) that,
12 upon paying an employee his or her wages, the employer must “furnish each of his or her employees
13 ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
14 employee, except for any employee whose compensation is solely based on a salary and who is
15 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
16 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
17 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
18 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
19 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
20 name of the employee and his or her social security number, (8) the name and address of the legal
21 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate by the employee.”

23 29. Defendants failed to provide accurate wage and hour statements to Plaintiff and those
24 similarly situated by failing to include “on duty” meal period wages, missed meal and rest period
25 premium wages, overtime wages, to which Plaintiff and those similarly situated were entitled.

26 30. In addition, Defendants failed to include the name and address of the legal entity that
27 is the employer on each of Plaintiff and similarly situated employees’ paystubs in violation of
28 California Labor Code section 226(a)(8).

1 31. **Failure to Pay California Employees All Wages Due at Time of**
2 **Termination/Resignation:** An employer is required to pay all unpaid wages timely after an
3 employee's employment ends. The wages are due immediately upon termination (Cal. Lab. Code §
4 201) or within 72 hours of resignation (Cal. Lab. Code § 202).

5 32. Because Defendants failed to pay Plaintiff those similarly situated all their earned
6 wages (including “on duty” meal period wages, overtime wages, and meal and rest period premium
7 wages) Defendants failed to pay those employees timely after each employee’s termination and/or
8 resignation.

9 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

10 33. Plaintiff brings this action on behalf of herself, on behalf of all others similarly
11 situated, and on behalf of the General Public, and as a member of a Class defined as follows:

12 A. **Meal Period Class:** All current and former non-exempt employees employed
13 by Defendants in California at any time within the four years prior to the filing of the initial
14 complaint in this action and through the date notice is mailed to a certified class who did not receive
15 uninterrupted, duty free meal periods due to Defendants' policies and procedures and/or who took
16 unpaid “on duty” meal periods even though the nature of the job permitted uninterrupted, duty free
17 meal periods and there was no valid written agreement agreeing to on duty meal periods.

18 B. **Rest Period Class:** All current and former non-exempt employees employed
19 by Defendants in California at any time within the four years prior to the filing of the initial
20 complaint in this action and through the date notice is mailed to a certified class who did not receive
21 rest periods due to Defendants' policies and procedures.

22 C. **Overtime Class:** All current and former non-exempt employees employed by
23 Defendants in California at any time within the four years prior to the filing of the initial complaint
24 in this action and through the date notice is mailed to a certified class who worked more than eight
25 in a day to whom Defendants did not pay overtime wages.

26 D. **Wage Statement Class:** All current and former non-exempt employees
27 employed by Defendants in California at any time within the four years prior to the filing of the
28 initial complaint in this action and through the date notice is mailed to a certified class who received

1 inaccurate wage statements.

2 E. **Waiting Time Class:** All current and former non-exempt employees
3 employed by Defendants in California at any time within the four years prior to the filing of the
4 initial complaint in this action and through the date notice is mailed to a certified class who did not
5 receive payment of all unpaid wages with the statutory time period.

6 F. **California Class:** All aforementioned classes are here collectively referred to
7 as the "California Class".

8 34. There is a well-defined community of interest in the litigation and the classes are
9 ascertainable:

10 A. **Numerosity:** While the exact number of class members in each class is
11 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder of
12 all members is impractical under the circumstances of this case.

13 B. **Common Questions Predominate:** Common questions of law and fact exist
14 as to all members of the Plaintiff classes and predominate over any questions that affect only
15 individual members of each class. The common questions of law and fact include, but are not
16 limited to:

17 i. Whether Defendants violated IWC Wage Orders and Labor Code
18 sections 226.7 and 512 by failing to afford members of the Meal Period Class duty free meal
19 periods;

20 ii. Whether Defendants failed to provide members of the Rest Period
21 Class, ten (10) minute rest breaks as contemplated by California law for every four hours worked or
22 major fraction thereof..

23 iii. Whether Defendants failed to provide members of the Overtime Class
24 with the legal rate of overtime pay for all hours worked in excess of 8 hours in a workday or 40
25 hours in a workweek;

26 iv. Whether Defendants failed to provide the Wage Statement Class
27 Members with accurate itemized statement at the time they received their itemized statements;

28 v. Whether Defendants failed to provide the Waiting Time Class with all

1 of their wages as well as their last wages within the Statutory time period;

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

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

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

8 ix. Whether Defendant's affirmative defenses, if any, raise any common
9 issues of law or fact as to Plaintiff, and the Class Members as a whole.

10 C. **Typicality:** Plaintiff's claims are typical of the claims of the class members in
11 each of the classes. Plaintiff and the members of the Meal Period Class sustained damages arising
12 out of Defendants' failure to provide duty free meal periods and failure pay meal period wages for
13 workdays in which employees did not receive their legally required meal periods. Plaintiff and the
14 members of the Rest Period Class sustained damages arising out of Defendants' failure to pay rest
15 period wages for workdays in which employees did not receive their legally required rest periods.
16 Plaintiff and the members of the Overtime Class sustained damages arising out of Defendants'
17 failure to pay overtime wages for workdays in which employees worked more than eight hours or
18 workdays in which employees were subject to Defendants' control but not paid for their time,
19 resulting in workdays in which employees worked more than eight hours. Plaintiff and the
20 members of the Wage Statement Class sustained damages arising out of Defendants' failure to
21 furnish them with accurate itemized wage statements in compliance with California Labor Code
22 section 226. Plaintiff and the members of the Waiting Time Class sustained damages arising out of
23 Defendants' failure to provide all unpaid yet earned wages and/or final paycheck for last pay period
24 worked due upon separation of employment.

25 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the
26 interests of the members of each class. Plaintiff has no interest that is adverse to the interests of the
27 other class members.

28 E. **Superiority:** A class action is superior to other available means for the fair

1 and efficient adjudication of this controversy. Because individual joinder of all members of each
2 class is impractical, class action treatment will permit a large number of similarly situated persons to
3 prosecute their common claims in a single forum simultaneously, efficiently, and without the
4 unnecessary duplication of effort and expense that numerous individual actions would engender.
5 The expenses and burdens of individual litigation would make it difficult or impossible for
6 individual members of each class to redress the wrongs done to them, while important public
7 interests will be served by addressing the matter as a class action. The cost to and burden on the
8 court system of adjudication of individualized litigation would be substantial, and substantially
9 more than the costs and burdens of a class action. Individualized litigation would also present the
10 potential for inconsistent or contradictory judgments.

11 F. **Public Policy Consideration:** Employers throughout the state violate wage
12 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or
13 indirect retaliation. Former employees fear bringing actions because they perceive their former
14 employers can blacklist them in their future endeavors with negative references and by other means.
15 Class actions provide the class members who are not named in the complaint with a type of
16 anonymity that allows for vindication of their rights.

17 **I. FIRST CAUSE OF ACTION**

18 **FAILURE TO PAY WAGES FOR WORKDAYS DEFENDANT FAILED TO PROVIDE AN**
19 **ADEQUATE MEAL PERIOD IN VIOLATION OF LABOR CODE SECTIONS 226.7 AND**

20 **512**

21 **(As Against All Defendants by the Meal Period Class)**

22 35. Plaintiff incorporates paragraphs 1 through 34 above as though fully set forth herein.

23 36. California law requires an employer to provide an employee an uninterrupted meal
24 period of no less than 30-minutes in which the employee is relieved of all duties and the employer
25 relinquishes control over the employee's activities prior to the employee's sixth hour of work. Cal.
26 Lab. Code §§ 226.7, 512; Wage Order §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53
27 Cal.4th 1004. If the employee is not relieved of all duty during a meal period, the meal period shall
28 be considered an "on duty" meal period and counted as time worked. *Id.* A paid "on duty" meal

1 period is only permitted when: (1) the nature of the work prevents an employee from being relieved
2 of all duty; and (2) the parties have a written agreement agreeing to “on duty” meal periods. *Id.* If
3 the employee is not free to leave the work premises or worksite during the meal period, even if the
4 employee is relieved of all other duty during the meal period, the employee is subject to the
5 employer's control and the meal period is counted as time worked. If an employer fails to provide
6 an employee a meal period in accordance with the law, the employer must pay the employee one
7 hour of pay at the employee’s regular rate of compensation for each work day that a legally required
8 meal period was not provided or was not duty free. *Id.*

9 37. Plaintiff and similarly situated employees would work on workdays in shifts long
10 enough to entitle them to meal periods under California law. Despite that California law requires
11 employers to provide employees with duty free meal periods when they have worked a sufficient
12 amount of hours, Defendants failed to provide employees a full duty free thirty minute meal period
13 for each five hour period of work as required by law. Instead, Defendants required Plaintiff and
14 those similarly situated to clock out but remain “on duty” during their meal periods. Nothing in the
15 nature of Plaintiff and similarly situated employees’ work prevented them from being relieved of all
16 duty during meal periods and the Parties did not have a valid written agreement agreeing to “on
17 duty” meal periods. Defendants failed to compensate Plaintiff and those similarly situated for their
18 “on duty” meal periods as time worked.

19 38. Defendants also failed to provide wages to Plaintiff and similarly situated employees
20 to compensate them for workdays they did not receive their legally required duty free meal period.
21 Defendants employed policies and procedures which ensured Plaintiff and similarly situated
22 employees would not receive a legally required, duty free full 30 minute meal periods. Defendants
23 employed policies and procedures which ensured employees did not receive any wages to
24 compensate them for workdays that they did not receive a full meal period. These practices resulted
25 in Plaintiff and all other similarly situated employees not receiving wages to compensate them for
26 workdays which Defendants did not provide them with all required meal periods including a second
27 duty free meal period in compliance with California law.

28 39. Defendants' policies and procedures made it impossible for Plaintiff and other Meal

1 Period Class members from receiving all legally required, duty free meal periods and prevented
2 Defendants from making such meal breaks available to Plaintiff and other Meal Period Class
3 Members when they worked a minimum of five hours in a work period.

4 40. Defendants' unlawful conduct alleged herein occurred in the course of employment
5 of Plaintiff and all others similarly situated and such conduct has continued through the filing of this
6 Complaint.

7 41. Because Defendants failed to afford proper meal periods, they are liable to Plaintiff
8 and the California Meal Period Class Members for one hour of additional pay at the regular rate of
9 compensation for each workday that the proper meal period was not provided, pursuant to Labor
10 Code section 226.7 and the Wage Orders.

11 42. Plaintiff, on behalf of himself and on behalf of the Meal Period Class, seeks
12 damages and all other relief allowable including a missed meal break wage for each workday the
13 employee was not provided with a second thirty (30) minute uninterrupted meal break, prejudgment
14 and pre-judgment interest.

15 43. WHEREFORE, Plaintiff and the Meal Period Class Members are entitled to one hour
16 of pay for each workday they missed a meal break and pre-judgment interest.

17 **II. SECOND CAUSE OF ACTION**

18 **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR**

19 **CODE SECTION 226.7**

20 **(As Against All Defendants by the Rest Period Class)**

21 44. Plaintiff incorporates paragraphs 1 through 43 above as though fully set forth herein.

22 45. At times relevant to this Complaint, Plaintiff and the members of the Rest Period
23 Class were non-exempt employees of Defendants covered by California Labor Code section 226.7
24 and the Wage Order.

25 46. California law requires an employer to authorize or permit an employee to take a rest
26 period of ten (10) net minutes for every four hours worked. Cal. Lab. Code §226.7; Wage Order
27 §12. Such rest periods must be in the middle of the four-hour period "insofar as practicable." *Id.* If
28 the employer fails to provide any required rest period, the employer must pay the employee one hour

1 of pay at the employee's regular rate of compensation for each work day the employer did not
2 provide at least one legally required rest period. *Id.*

3 47. Defendants failed to provide Plaintiff and the Class Members all required rest
4 periods and failed to pay wages to Plaintiff and similarly situated employees to compensate them for
5 each workday they did not receive all legally required rest periods. Defendants employed policies
6 and procedures which ensured Plaintiff and similarly situated employees would not receive all
7 legally required rest periods.

8 48. Defendants employed policies and procedures which ensured Plaintiff and similarly
9 situated employees did not receive any wages to compensate them for workdays that they did not
10 receive all legally required rest periods.

11 49. This practice resulted in Plaintiff and all other similarly situated employees not
12 receiving wages to compensate them for workdays which Defendants did not provide them with rest
13 periods in compliance with California law.

14 50. Plaintiff, on behalf of herself and on behalf of the Rest Period Class, seeks damages
15 and all other relief allowable including: rest period wages for each workday the employee was not
16 provided with all required rest periods of ten net minutes; and prejudgment interest.

17 51. Pursuant to California Labor Code section 226.7 and the Wage Order, Plaintiff and
18 the Rest Period Class Members are entitled to one hour of pay for each workday Defendants failed
19 to provide all required rest periods, plus pre-judgment interest.

20 **III. THIRD CAUSE OF ACTION**

21 **FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME AND ALL TIME**
22 **WORKED IN VIOLATION OF LABOR CODE SECTIONS 510, 1194, AND 1198**

23 **(As Against All Defendants by the Overtime Class)**

24 52. Plaintiff hereby incorporates by reference paragraphs 1-51 above, as if fully set
25 herein by reference.

26 53. At times relevant to this Complaint, Plaintiff and the members of the Overtime Class
27 were non-exempt employees of Defendants covered by California Labor Code sections 510 and
28 1194 and the Wage Order.

1 54. Pursuant to California Labor Code sections 510 and 1194 and the Wage Order, non-
2 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of 8
3 hours in a workday.

4 55. California Labor Code section 510, subdivision (a), states in relevant part:

5 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
6 one workday and any work in excess of 40 hours in any one workweek and the first
7 eight hours worked on the seventh day of work in any one workweek shall be
8 compensated at the rate of no less than one and one-half times the regular rate of pay
9 for an employee. Any work in excess of 12 hours in one day shall be compensated at
10 the rate of no less than twice the regular rate of pay for an employee. In addition, any
11 work in excess of eight hours on any seventh day of a workweek shall be
12 compensated at the rate of no less than twice the regular rate of pay of an employee.
13 Nothing in this section requires an employer to combine more than one rate of
14 overtime compensation in order to calculate the amount to be paid to an employee
15 for any hour of overtime work.

16 56. Further, California Labor Code section 1198 provides,

17 The maximum hours of work and the standard conditions of labor fixed by the
18 commission shall be the maximum hours of work and the standard conditions of
19 labor for employees. The employment of any employee for longer hours than those
20 fixed by the order or under conditions of labor prohibited by the order is unlawful.

21 57. Defendants' payroll policies and procedures required employees of the Overtime
22 Class to work in excess of eight hours in a workday but Defendants did not pay employees' wages
23 for this time.

24 58. Specifically, Defendants would fail to pay Plaintiff and similarly situated employees'
25 wages for their "on duty" meal periods during which they were under control of Defendants. To the
26 extent the employees had worked 8 hours in the day and on workweeks they had already worked 40
27 hours in a workweek excluding their "on duty" meal periods, the employees should have been paid
28 overtime for their unpaid "on duty" meal period time. Plaintiff and other similarly situated
employees' unpaid, "on duty" meal periods often occurred in work periods during which the Class
Members had already worked at least eight hours in a workday. To the extent the unpaid work
occurred during such work periods such that it forced the Class Members to work overtime hours
during a workday, Defendants were required to pay employees wages at an overtime rate of pay.

1 pay wages for “on duty” meal periods, failure to pay overtime wages for all overtime hours worked,
2 and failure to pay meal and rest period premium wages, resulted in Defendants providing their
3 hourly employees with inaccurate itemized wage statements in violation of California Labor Code
4 section 226.

5 65. Defendants provided Plaintiff and members of the Class with itemized statements
6 which stated inaccurate information including, but not limited to, the gross and net pay, and all
7 applicable hourly rates and earnings at each rate.

8 66. Defendants’ failure to provide Plaintiff and members of the Wage Statement Class
9 with accurate wage statements was knowing and intentional. Defendants had the ability to provide
10 Plaintiff and members of the Class with accurate wage statements but intentionally provided wage
11 statements that Defendants knew were not accurate. Defendants knowingly and intentionally put in
12 place practices which deprived employees of wages and resulted in Defendants’ knowing and
13 intentional providing of inaccurate wage statements. These practices included Defendants’ failure
14 to include all hours worked and all wages due.

15 67. As a result of Defendants’ unlawful conduct, Plaintiff and members of the Class have
16 suffered injury. The absence of accurate information on their wage statements has prevented earlier
17 challenges to Defendants’ unlawful pay practices, will require discovery and mathematical
18 computations to determine the amount of wages owed, and will cause difficulty and expense in
19 attempting to reconstruct time and pay records. Defendants’ conduct led to the submission of
20 inaccurate information about wages and amounts deducted from wages to state and federal
21 government agencies. As a result, Plaintiff and similarly situated employees are required to
22 participate in this lawsuit and create more difficulty and expense for Plaintiff and similarly situated
23 employees from having to reconstruct time and pay records than if Defendants had complied with
24 their legal obligations.

25 68. Pursuant to California Labor Code section 226(e), Plaintiff and members of the
26 Wage Statement Class are entitled to recover fifty dollars per employee for the initial pay period in
27 which a Section 226 violation occurred and one hundred dollars per employee per violation for each
28 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars per employee.

1 is informed and believes and thereon alleges that at all relevant times within the limitations period
2 applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly
3 employees upon separation of employment wages for all unpaid wages and/or not paying them final
4 wages timely upon separation of employment.

5 75. Defendants' failure to pay Plaintiff and members of the Waiting Time Class all wages
6 earned prior to termination timely in accordance with Labor Code Sections 201 or 202 was willful.
7 Defendants had the ability to pay all wages earned by hourly workers prior to termination in
8 accordance with Labor Code Sections 201 or 202, but intentionally adopted policies or practices
9 incompatible with the requirements of Labor Code Sections 201 or 202. Defendants practices
10 including: failure to properly calculate and pay all "on duty" meal period wages; failure to pay
11 overtime wages; and failure to pay meal and rest period premium wages for workdays employees
12 did not receive meal and rest periods in compliance with California law. When Defendants failed to
13 pay hourly workers timely upon termination all wages earned prior to termination, Defendants knew
14 what they were doing and intended to do what they did. These unpaid wages included all unpaid
15 overtime.

16 76. Pursuant to Labor Code Section 201 or 202, Plaintiff and members of the Waiting
17 Time Class are entitled to all wages earned prior to termination that Defendants did not pay them.

18 77. Pursuant to Labor Code Section 203, Plaintiff and members of the Waiting Time
19 Class are entitled to continuation of their wages, from the day their earned and unpaid wages were
20 due upon termination until paid, up to a maximum of 30 days.

21 78. As a result of Defendants conduct, Plaintiff and members of the Waiting Time Class
22 have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
23 earned prior to termination.

24 79. As a result of Defendants conduct, Plaintiff and members of the 203 Class have
25 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation
26 wages owed under Labor Code Section 203.

27 80. Pursuant to Labor Code Sections Plaintiff and members of the Waiting Time Class
28 are entitled to recover the full amount of their unpaid wages, continuation wages under Section 203,

1 and interest thereon.

2 **VI. SIXTH CAUSE OF ACTION**

3 **6. UNFAIR BUSINESS PRACTICES IN VIOLATION OF BUSINESS AND**
4 **PROFESSIONS CODE SECTION 17200, et seq.**

5 **(As Against All Defendants by the California Class)**

6 81. Plaintiff incorporates paragraphs 1 through 80 of this complaint as if fully alleged
7 herein.

8 82. The unlawful conduct of Defendants alleged herein constitutes unfair competition
9 within the meaning of California Business and Professions Code Section 17200. This unfair conduct
10 includes Defendants' use of policies and procedures which resulted in failing to pay employees for
11 "on duty" meal periods; failure to pay overtime by failing to account for all time Plaintiff and
12 similarly situated employees worked; failure to provide rest periods; failure to pay meal and rest
13 period premium wages; providing inaccurate wage statements; and untimely paying all unpaid
14 wages after separation of employment. Due to Defendants' unfair and unlawful business practices in
15 violation of the Labor Code, Defendants have gained a competitive advantage over other
16 comparable companies doing business in the State of California that comply with their obligations
17 to pay employees for all hours worked.

18 83. As a result of Defendants' unfair competition as alleged herein, Plaintiff and
19 members of the Meal Period Class, Rest Period Class, Overtime Class, Wage Statement Class, and
20 Waiting Time Class have suffered injury in fact and lost money or property, as described in more
21 detail above.

22 84. Pursuant to California Business and Professions Code Section 17203, Plaintiff and
23 members of the Meal Period Class, Rest Period Class, Overtime Class, Wage Statement Class, and
24 Waiting Time Class are entitled to restitution of all wages and other monies rightfully belonging to
25 them that Defendants failed to pay them and wrongfully retained by means of their unlawful and
26 unfair business practices. Plaintiff also seeks an injunction against Defendants on behalf of the
27 California Class enjoining Defendants, and any and all persons acting in concert with them, from
28 engaging in each of the unlawful practices, policies and patterns set forth herein.

1 **PRAYER FOR RELIEF**

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

4 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, AND SIXTH CAUSES OF ACTION:**

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

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

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

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

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

15 1. That the Defendants be found to have violated the meal break provisions of the
16 California Labor Code and the Wages Order as to the Plaintiffs and the Meal Period Class;

17 2. For damages, according to proof, including unpaid meal period premium wages;

18 3. For any and all legally applicable penalties;

19 4. For pre-judgment interest, including but not limited to that recoverable under
20 California Labor Code section 218.6, and post-judgment interest; and

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

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

24 1. That Defendants be found to have violated the rest period provisions of the
25 California Labor Code and the Wage Order as to Plaintiff and the Rest Period Class;

26 2. For damages, according to proof, including unpaid rest period premium wages;

27 3. For any and all legally applicable penalties;

28 4. For pre-judgment interest, including but not limited to that recoverable under

1 California Labor Code section 218.6, and post-judgment interest; and

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

4 **ON THE THIRD CAUSE OF ACTION:**

5 1. That Defendants be found to have violated the overtime provisions of the California
6 Labor Code and the Wage Order as to Plaintiff and the Overtime Class;

7 2. For damages, according to proof, including but not limited to unpaid overtime wages;

8 3. For any and all legally applicable penalties;

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

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

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

15 **ON THE FOURTH CAUSE OF ACTION:**

16 1. That Defendants be found to have violated the provisions of the California Labor
17 Code regarding accurate itemized paystubs as to the Wage Statement Class;

18 2. For damages and/or penalties, according to proof, including damages and/or statutory
19 penalties under California Labor Code section 226(e) and any other legally applicable damages or
20 penalties;

21 3. For pre-judgment interest and post-judgment interest;

22 4. For attorneys' fees and costs of suit, including but not limited to that recoverable
23 under California Labor Code section 226(e); and,

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

26 **ON THE FIFTH CAUSE OF ACTION:**

27 1. That Defendants be found to have violated the provisions of the California Labor
28 Code regarding payment of all unpaid wages due upon resignation or termination as to the Waiting

1 Time Class;

2 2. For damages and/or penalties, according to proof, including damages and/or statutory
3 penalties under California Labor Code section 203 and any other legally applicable damages or
4 penalties;

5 3. For pre-judgment interest, including under California Labor Code section 218.6, and
6 post-judgment interest; and,

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

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

10 1. That Defendants be found to have violated California Business and Professions Code
11 section 17200, et seq., for the conduct alleged herein as to all Classes;

12 2. A declaratory judgment that the practices complained herein are unlawful;

13 3. An injunction against Defendants enjoining them, and any and all persons acting in
14 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
15 herein;

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

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

19 Dated: December 19, 2014

20 Respectfully submitted,
21 **LAVI & EBRAHIMIAN, LLP**

22 By: 

23 Joseph Lavi, Esq.
24 Vincent C. Granberry, Esq.
25 Attorneys for PLAINTIFF
26 ALMA R. CASTELLANOS
27 and Other Class Members
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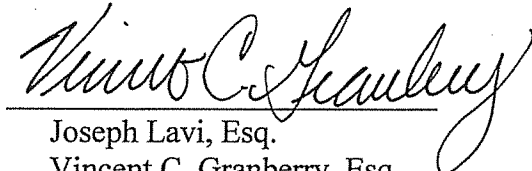
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DEMAND FOR JURY TRIAL

PLAINTIFF ALMA R. CASTELLANOS demands a trial by jury for herself and the California Class on all claims so triable.

Dated: December 19, 2014

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: 
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Attorneys for PLAINTIFF
ALMA R. CASTELLANOS
and Other Class Members