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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SANTA CLARA**

10
11 ANGELA EWALD, individually, and) **Case No.**
on behalf of all others similarly)
12 situated,) **CLASS ACTION**
)
13 Plaintiff,) **COMPLAINT FOR DAMAGES,**
) **INJUNCTIVE RELIEF AND RESTITUTION**
14 vs.)
)
15 AVEDA SERVICES, INC.,) **[DEMAND FOR JURY TRIAL]**
and DOES 1 through 100, inclusive,)
16 Defendants.)
17

18
19 Representative Plaintiff alleges as follows:
20

21 **PRELIMINARY STATEMENT**

22 1. This is a class action, brought on behalf of Angela Ewald (hereinafter “Representative
23 Plaintiff”) and all other persons similarly situated (“Class Members”) who are or were non-exempt
24 employees of defendants Aveda Services, Inc. (“Aveda”) and/or Does 1 through 100, inclusive
25 (collectively, “Defendants”), in any Aveda retail store in California within the applicable class
26 period. The Representative Plaintiff, on behalf of herself and the Class Members, seeks unpaid
27 wages, including unpaid overtime compensation and interest thereon, liquidated damages and other
28 penalties, injunctive and other equitable relief, and reasonable attorneys’ fees and costs under, *inter*

1 *alia*, Title 8 of the California Code of Regulations, California Business and Professions Code
2 §§ 17200, *et seq.*, California Code of Civil Procedure § 1021.5, and various provisions of the
3 California Labor Code.

4 2. The Class Period is designated as the time from July 23, 2010 through the date of
5 trial, based upon the allegation that the violations of California's wage and hour laws, as described
6 more fully below, have been ongoing throughout that time.

7 3. During the Class Period, Defendants have had a consistent policy of, *inter alia*, (1)
8 requiring their non-exempt retail employees, including Representative Plaintiff and Class Members,
9 to remain at work, under the control of Defendants, after completion of these workers' ordinary
10 duties, without paying these employees' wages (including overtime wages) for all compensable time,
11 (2) requiring their non-exempt retail employees, including Representative Plaintiff and Class
12 Members, to submit to mandatory security checks of their persons and/or belongings without paying
13 them compensation (including overtime and/or other compensation for working through meal and/or
14 rest periods), (3) willfully failing to pay compensation owing in a prompt and timely manner to
15 Representative Plaintiff and/or Class Members whose employment with Aveda has terminated, (4)
16 willfully failing to provide Representative Plaintiff and Class Members with accurate semimonthly
17 itemized statements of the total number of hours each of them worked, the applicable deductions,
18 and the applicable hourly rates in effect during the pay period, (5) willfully failing to provide meal
19 periods and/or rest periods to Representative Plaintiff and/or Class Members, and (6) failing to
20 reimburse Plaintiff and Class Members for business expenses incurred in the performance of their
21 duties.

22 **INTRODUCTION**

23 4. Representative Plaintiff is informed and believes and, based thereon, alleges that,
24 within the Class Period, Aveda operated numerous retail establishments throughout California. In
25 doing so, Aveda has employed hundreds, if not thousands, of individuals in non-exempt retail
26 positions which are entitled to full and uninterrupted meal and rest periods, as well as other benefits
27 of employment, as set forth herein.

1 service of process. The unlawful acts alleged herein have a direct effect on Plaintiff and those
2 persons similarly situated within the State of California and County of Santa Clara. Defendant Aveda
3 operates facilities and has employed numerous Class Members in the County of Santa Clara.

4
5 **PLAINTIFF**

6 11. Representative Plaintiff is a natural person and was, during the Class Period identified
7 herein, employed by Defendants as a non-exempt employee at one or more of Defendants' California
8 retail stores.

9 12. During the Class Period identified herein, Representative Plaintiff was a person
10 within the Class of persons further described and defined herein.

11 13. As used throughout this Complaint, the term "Class Members" and/or the "Plaintiff
12 Class" refers to the named Plaintiff as well as each and every person eligible for membership in the
13 class of persons further described and defined herein.

14 14. Representative Plaintiff brings this action on behalf of herself and as a class action,
15 pursuant to California Code of Civil Procedure § 382, on behalf of all persons similarly situated and
16 proximately damaged by the unlawful conduct described herein.

17
18 **DEFENDANTS**

19 15. At all times herein relevant, Defendant Aveda was a corporation, duly licensed,
20 located and doing business in, but not limited to, the County of Santa Clara, in the State of
21 California.

22 16. Representative Plaintiff is informed and believes and, based thereon, alleges that
23 Defendant Aveda has, since July 23, 2010, directly or indirectly employed and/or exercised control
24 over the wages, hours, and working conditions of Plaintiff and Class Members within various
25 California counties, including, but not limited to, the County of Santa Clara.

26 17. Those Defendants identified as Does 1 through 100, inclusive, were, at all times
27 herein-mentioned, business affiliates, successors- and/or predecessors-in-interest, officers, directors,
28 partners, and/or managing agents of some or each of the remaining defendants. Plaintiff is informed

1 and believes and, on that basis, alleges that, at all times herein-mentioned, each of the defendants
2 identified as Does 1 through 100, inclusive, employed, and/or exercised control over the wages,
3 hours, and/or working conditions of Plaintiff and Class Members at various California locations, as
4 identified in the preceding paragraph.

5 18. Representative Plaintiff is unaware of the true names and capacities of those
6 defendants sued herein as Does 1 through 100, inclusive, and, therefore, sues these Defendants by
7 such fictitious names. Representative Plaintiff will seek leave of court to amend this Complaint when
8 such names are ascertained. Representative Plaintiff is informed and believes and, on that basis,
9 alleges that each of the fictitiously-named defendants is and/or was responsible in some manner for,
10 gave consent to, ratified, and/or authorized the conduct herein-alleged and that Representative
11 Plaintiff's and Class Members' damages, as herein-alleged, were proximately caused thereby.

12 19. Representative Plaintiff is informed and believes and, on that basis, alleges that, at all
13 times herein-mentioned, each of the Defendants was the agent and/or employee of each of the
14 remaining Defendants and, in doing the acts herein alleged, was acting within the course and scope
15 of such agency and/or employment.

16
17 **CLASS ACTION ALLEGATIONS**

18 20. Representative Plaintiff brings this action on behalf of herself and as a class action on
19 behalf of the following Plaintiff Class:

20 *All persons who are and/or were employed as non-exempt employees by*
21 *Aveda Services, Inc., in one or more of Aveda's California retail stores*
22 *between July 23, 2010 and the present.*

23 21. Defendants and their officers and directors are excluded from the Plaintiff Class.

24 22. This action has been brought and may properly be maintained as a class action under
25 California Code of Civil Procedure § 382 because there is a well-defined community of interest in
the litigation and the proposed Class is easily ascertainable.

26 a. Numerosity: A class action is the only available method for the fair and
27 efficient adjudication of this controversy. The members of the Plaintiff Class
28 are so numerous that joinder of all members is impractical, if not impossible,
insofar as the Plaintiff are informed and believe and, on that basis, allege that
the total number of Class Members is, at least, in the hundreds, if not
thousands, of individuals. Membership in the Class will be determined by

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and upon analysis of employee and payroll records, among other records maintained by Aveda.

- b. Commonality: Plaintiff and the Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:
 - 1) Whether Aveda violated California Labor Code §§ 226.7 and/or 512 by failing to consistently provide duty-free meal and/or rest periods to its non-exempt retail employees;
 - 2) Whether Aveda violated applicable IWC Wage Order(s) and/or California Labor Code § 510 by failing to pay all compensation (including overtime) to its non-exempt retail employees who worked in excess of forty hours per week and/or eight hours per day;
 - 3) Whether Aveda violated California Labor Code § 1174 by failing to keep accurate records of Class Members' hours of work;
 - 4) Whether Aveda violated California Labor Code §§ 201-204 by failing to pay Class Members all wages due and owed during the pendency of employment and/or at the time of the termination of employment with Defendant;
 - 5) Whether Aveda violated California Labor Code §§ 400-410 and/or § 2802 by requiring Plaintiff and Class Members to pay all or a portion of the normal business expenses of Defendant;
 - 6) Whether Aveda violated California Labor Code § 226 by failing to provide Class Members with semimonthly itemized statements including total hours worked and all applicable hourly rates in effect during the pay period; and
 - 7) Whether Aveda violated Business and Professions Code §§ 17200, *et seq.* by engaging in unfair, unlawful and/or fraudulent business practices.
- c. Typicality: Representative Plaintiff's claims are typical of the claims of the Plaintiff Class. Representative Plaintiff and all members of the Plaintiff Class sustained damages arising out of and caused by Defendants' common course of conduct in violation of law, as alleged herein.
- d. Adequacy of Representation: Representative Plaintiff in this class action is an adequate representative of the Plaintiff Class in that Representative Plaintiff's claims are typical of those of the Plaintiff Class and the Representative Plaintiff has the same interest in the litigation of this case as the Class Members. Representative Plaintiff is committed to vigorous prosecution of this case and has retained competent counsel who is experienced in conducting litigation of this nature. Representative Plaintiff is not subject to any individual defenses unique from those conceivably applicable to Class Members as a whole. Representative Plaintiff anticipates no management difficulties in this litigation.
- e. Superiority of Class Action: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member makes or may make it

1 impractical for members of the Plaintiff Class to seek redress individually for
2 the wrongful conduct alleged herein. Should separate actions be brought, or
3 be required to be brought, by each individual member of the Plaintiff Class,
4 the resulting multiplicity of lawsuits would cause undue hardship and
5 expense for the Court and the litigants. The prosecution of separate actions
6 would also create a risk of inconsistent rulings which might be dispositive of
7 the interests of other Class Members who are not parties to the adjudications
8 and/or may substantially impede their ability to adequately protect their
9 interests.

10 **COMMON FACTUAL ALLEGATIONS**

11 23. Aveda has, for years, knowingly failed to properly compensate the Plaintiff Class
12 for all wages earned and due (including, but not necessarily limited to, overtime wages and/or
13 compensation for missed meal and/or rest periods) and has failed to reimburse Plaintiff and Class
14 Members for necessary business expenses. Moreover, Defendants have failed to provide the Plaintiff
15 Class with net ten minute rest periods for work shifts exceeding four hours or a major fraction
16 thereof, and have failed to provide uninterrupted, unrestricted meal periods of at least 30 minutes for
17 work shifts exceeding five hours. Defendants have declined to pay these wages, even upon a Class
18 Member's termination or resignation from employment, in blatant violation of California Labor
19 Code §§ 201-204, inclusive. More than 30 days has passed since certain Class Members have left
20 Defendants' employ.

21 24. Defendants also failed to provide Representative Plaintiff and Class Members with
22 accurate semimonthly itemized statements of the total number of hours worked by each, and all
23 applicable hourly rates in effect during each pay period, in violation of California Labor Code § 226.
24 In doing so, Defendants have not only failed to pay their workers the full amount of compensation
25 due, they have, until now, effectively shielded themselves from employees' scrutiny for their
26 unlawful conduct by concealing the magnitude (e.g., the full number of hours worked) and financial
27 impact of their wrongdoing.

28 25. As a direct and proximate result of Defendants' unlawful conduct, as set forth
herein, Representative Plaintiff and Class Members have sustained damages, as described above,
including loss of earnings for uncompensated hours worked, unreimbursed business expenses,
missed meal periods, and missed rest periods, in an amount to be established at trial. As a further
direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff and Class

1 Members are entitled to recover penalties/wages for failure to pay wages owed upon termination
2 (pursuant to California Labor Code §§ 201-204), for failure to provide semimonthly itemized wage
3 statements of hours worked and all applicable hourly rates (pursuant to California Labor Code § 226)
4 in an amount to be established at trial. As a further direct and proximate result of Defendants'
5 unlawful conduct, as set forth herein, Representative Plaintiff and Class Members are also entitled to
6 recover attorneys' fees, litigation costs, and restitution of ill-gotten gains, pursuant to statute.

7 26. Representative Plaintiff complied and/or will comply with the procedures for bringing
8 suit specified in California Labor Code § 2699.3. By letter dated July 23, 2014, Representative
9 Plaintiff gave written notice, by certified mail, to the Labor and Workforce Development Agency
10 ("LWDA") and Defendant Aveda of the specific provisions of the California Labor Code alleged to
11 have been violated, including the facts and theories to support those violations.

12 **FIRST CAUSE OF ACTION**
13 **FAILURE TO PROVIDE MEAL AND REST PERIODS**
14 **(California Labor Code §§ 226.7 and 512)**

15 27. Representative Plaintiff incorporates in this cause of action each and every
16 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
17 herein.

18 28. At all relevant times, Defendants were aware of and were under a duty to comply
19 with California Labor Code §§ 226.7 and 512.

20 29. California Labor Code § 226.7 provides:

21 (a) An employer shall not require an employee to work during a meal or rest or
22 recovery period mandated pursuant to an applicable statute, or applicable
23 regulation, standard, or order of the Industrial Welfare Commission, the
24 Occupational Safety and Health Standards Board, or the Division of Occupational
25 Safety and Health.

26 (b) If an employer fails to provide an employee a meal or rest or recovery period
27 in accordance with a state law, including, but not limited to, an applicable statute or
28 applicable regulation, standard, or order of the Industrial Welfare Commission, the
Occupational Safety and Health Standards Board, or the Division of Occupational
Safety and Health, the employer shall pay the employee one additional hour of pay
at the employee's regular rate of compensation for each workday that the meal or
rest or recovery period is not provided.

29 30. Moreover, California Labor Code § 512 provides:

An employer may not employ an employee for a work period of more than
five hours per day without providing the employee with a meal period of

1 not less than 30 minutes, except that if the total work period per day of the
2 employee is no more than six hours, the meal period may be waived by
3 mutual consent of both the employer and employee. An employer may not
4 employ an employee for a work period of more than 10 hours per day
without providing the employee with a second meal period of not less than
30 minutes, except that if the total hours worked is no more than 12 hours,
the second meal period may be waived by mutual consent of the employer
and the employee only if the first meal period was not waived.

5 31. By failing to consistently provide uninterrupted and unrestricted meal and rest
6 periods to Class Members, Defendants violated California Labor Code §§ 226.7 and/or 512, and
7 §§ 11 and 12 of IWC Wage Order No. 7.

8 32. Section 11 of Wage Order No. 7 provides:

9 (a) No employer shall employ any person for a work period of more than five (5)
10 hours without a meal period of not less than 30 minutes....

11 (b) An employer may not employ an employee for a work period of more than
12 ten (10) hours per day without providing the employee with a second meal period
of not less than 30 minutes.....

13 (c) If an employer fails to provide an employee a meal period in accordance with
14 the applicable provisions of this order, the employer shall pay the employee one (1)
hour of pay at the employee's regular rate of compensation for each workday that
the meal period is not provided.

15 33. Moreover, Section 12 of Wage Order No. 7 provides:

16 (a) Every employer shall authorize and permit all employees to take rest periods,
17 which insofar as practicable shall be in the middle of each work period. The
authorized rest period time shall be based on the total hours worked daily at the
18 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof

19 (b) If an employer fails to provide an employee a rest period in accordance with
20 the applicable provisions of this order, the employer shall pay the employee one (1)
hour of pay at the employee's regular rate of compensation for each workday that
the rest period is not provided.

21 34. By failing to consistently (1) provide meal breaks within the first five hours of a
22 work shift, (2) provide uninterrupted thirty-minute meal periods, and/or (3) authorize and permit ten-
23 minute rest periods to Class Members, Defendants violated the California Labor Code and §§ 11 and
24 12 of IWC Wage Order No. 7.

25 35. Even where Defendants' records specifically evidence that no meal and/or rest
26 periods were provided to Representative Plaintiff and Class Members, Aveda refuses to provide
27 these employees with one hour of compensation for these respective violations as mandated by
28 California law. Representative Plaintiff is informed and believes and, on that basis, alleges that

1 Defendants have not paid the one hour of compensation to Class Members for all missed meal and
2 rest periods.

3 36. As a direct and proximate result of Defendants' unlawful conduct, as set forth
4 herein, Representative Plaintiff and Class Members have sustained damages, including lost
5 compensation resulting from missed meal and/or rest periods, in an amount to be established at trial.
6 As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, certain
7 Class Members are entitled to recover "waiting time" and other penalties, in an amount to be
8 established at trial, as well as attorneys' fees and costs, and restitution, pursuant to statute.
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10 **SECOND CAUSE OF ACTION**
11 **UNLAWFUL FAILURE TO PAY OVERTIME WAGES**
12 **(Violation of IWC Wage Order and California Labor Code §§ 510, 1194, and 1198)**

13 37. Representative Plaintiff incorporates in this cause of action each and every allegation
14 of the preceding paragraphs, with the same force and effect as though fully set forth herein.

15 38. During the Class Period, Representative Plaintiff and the Class Members worked, on
16 many occasions, in excess of eight hours in a workday and/or 40 hours in a workweek. The precise
17 number of overtime hours will be proven at trial.

18 39. During the Class Period, Defendants refused to compensate Representative Plaintiff
19 and Class Members for all wages earned, including overtime wages, in violation of the applicable
20 IWC Wage Order and provisions of the California Labor Code.

21 40. Moreover, during said time period, many of the Class Members herein were
22 employed by and thereafter terminated or resigned from their positions with Aveda, including
23 Representative Plaintiff, yet were not paid all wages due upon said termination or within 72 hours of
24 said resignation of employment therefrom. Said non-payment of all wages due was the direct and
25 proximate result of a willful refusal to do so by Aveda.

26 41. At all relevant times, Defendants were aware of, and were under a duty to comply
27 with, the overtime provisions of the California Labor Code including, but not limited to, California
28 Labor Code §§ 510, 1194, and 1198.

42. California Labor Code § 510(a), in pertinent part, provides:

1 Any work in excess of eight hours in one workday and any work in
2 excess of 40 hours in any one workweek and the first eight hours
3 worked on the seventh day of work in any one workweek shall be
4 compensated at the rate of no less than one and one-half times the
5 regular rate of pay for an employee

43. California Labor Code § 1194(a), in pertinent part, provides:

5 Notwithstanding any agreement to work for a lesser wage, any
6 employee receiving less than the legal minimum wage or the legal
7 overtime compensation applicable to the employee is entitled to
8 recover in a civil action the unpaid balance of the full amount of this
9 minimum wage or overtime compensation, including interest thereon,
10 reasonable attorneys' fees, and costs of suit.

44. California Labor Code § 1198, in pertinent part, provides:

10 The maximum hours of work and the standard conditions of labor
11 fixed by the commission shall be the maximum hours of work and the
12 standard conditions of labor for employees. The employment of any
13 employee for longer hours than those fixed by the order or under
14 conditions of labor prohibited by the order is unlawful.

45. By refusing to compensate Representative Plaintiff and Class Members for overtime
14 wages earned, Defendants violated those California Labor Code provisions cited herein as well as
15 the applicable IWC Wage Order(s).

46. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,
17 Representative Plaintiff and the Plaintiff Class have sustained damages, including loss of earnings
18 for hours of overtime worked on behalf of Aveda, in an amount to be established at trial, and are
19 entitled to recover attorneys' fees and costs of suit

21 **THIRD CAUSE OF ACTION**
22 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
23 **(California Labor Code §§ 226 and 1174)**

47. Representative Plaintiff incorporates in this cause of action each and every
24 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
25 herein.

48. California Labor Code § 226(a) provides:

27 Each employer shall semi-monthly, or at the time of each payment of
28 wages, furnish each of his or her employees either as a detachable part of
the check, draft or voucher paying the employee's wages, or separately

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when wages are paid by personal check or cash, an itemized wage statement in writing showing: (1) gross wages earned; (2) total number of hours worked by each employee whose compensation is based on an hourly wage; (3) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (4) net wages earned; (5) the inclusive date of the period for which the employee is paid; (6) the name of the employee and his or her social security number; and (7) the name and address of the legal entity which is the employer.

49. Moreover, California Labor Code § 226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

....

An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

50. Finally, California Labor Code § 1174(d) provides:

Every person employing labor in this state shall ... Keep, at a central location in the state ... payroll records showing the hours worked daily by and the wages paid to ... employees.... These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

51. Defendants have failed to provide timely, accurate itemized wage statements to the Representative Plaintiff and Class Members in accordance with California Labor Code § 226. Representative Plaintiff is informed and believes and, on that basis, alleges that none of the statements provided by Defendants accurately reflected actual gross wages earned, net wages earned, or the appropriate deductions for any Class Member.

52. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Representative Plaintiff and the Plaintiff Class are entitled to recover penalties, in an amount to be established at trial, as well as attorneys' fees and costs, pursuant to statute.

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FOURTH CAUSE OF ACTION
FAILURE TO PAY WAGES ON TERMINATION
(California Labor Code § 203)

53. Representative Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

54. California Labor Code § 203 provides that:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

55. Numerous Class Members, including the Representative Plaintiff, were employed by Aveda during the Class Period and were thereafter involuntarily terminated or voluntarily resigned from their positions, yet were not paid all wages due upon said termination or within 72 hours of said resignation of employment therefrom. Said non-payment was the direct and proximate result of a willful refusal to do so by Aveda.

56. More than thirty days has elapsed since certain Class Members were involuntarily terminated or voluntarily resigned from Defendants' employ.

57. As a direct and proximate result of Defendants' willful conduct in failing to pay said Class Members for all hours worked, affected Class Members are entitled to recover "waiting time" penalties of up to thirty days' wages pursuant to California Labor Code § 203 in an amount to be established at trial, together with interest thereon, and attorneys' fees and costs.

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FIFTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES AND/OR PROHIBITED CASH BOND
(California Labor Code §§ 406 and 2802)

58. Representative Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

1 59. During the Class Period, Defendants required Representative Plaintiff and Class
2 Members to incur expenses related to the business operations of Defendants. These expenses
3 include(d), without limitation, mileage for running business errands.

4 60. These expenditures were incurred in direct consequence of the discharge of the duties
5 of Representative Plaintiff and Class Members, or of their obedience to the directions of their
6 employer and have not yet been reimbursed by Defendants.

7 61. At all relevant times, Defendants were aware of and were under a duty to comply
8 with various provisions of the California Labor Code, including, but not necessarily limited to
9 §§ 406 and 2802(a).

10 62. California Labor Code § 406 provides:

11 Any property put up by an employee, or applicant as a part of the contract of
12 employment, directly or indirectly, shall be deemed to be put up as a bond
13 and is subject to the provisions of this article whether the property is put up
14 on a note or as a loan or an investment and regardless of the wording of the
15 agreement under which it is put up.

14 63. California Labor Code § 2802(a) provides:

15 An employer shall indemnify his or her employee for all necessary
16 expenditures or losses incurred by the employee in direct consequence of the
17 discharge of his or her duties, or of his or her obedience to the directions of
18 the employer, even though unlawful, unless the employee, at the time of
19 obeying the directions, believed them to be unlawful.

18 64. By requiring Representative Plaintiff and Class Members to incur uncompensated
19 expenses in direct consequence of the discharge of their duties, Representative Plaintiff and Class
20 Members were forced and/or brought to contribute to the capital and expenses of Defendants'
21 business which is legally a cash bond, and which must be refunded by Defendants to Representative
22 Plaintiff and each Class Member.

23 65. California Labor Code § 2802(b) and (c) provides for interest at the statutory post-
24 judgment rate of ten percent simple interest per annum from the date of the expenditure, plus
25 attorneys' fees to collect reimbursement.

26 66. Therefore, Representative Plaintiff demands reimbursement for expenditures or losses
27 incurred by herself and the remaining Class Members in direct consequence of the discharge of her
28 and their duties, or of her or their obedience to the directions of Defendants, plus return of all cash

1 bonds or other coerced investments in the business of Defendants, with interest, at the statutory rate,
2 plus attorneys' fees and costs.

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4 **SIXTH CAUSE OF ACTION**
5 **UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT**
6 **(California Business & Professions Code §§ 17200-17208)**

7 67. Representative Plaintiff incorporates in this cause of action each and every allegation
8 of the preceding paragraphs, with the same force and effect as though fully set forth herein.

9 68. Representative Plaintiff further brings this cause of action seeking equitable and
10 statutory relief to stop Defendants' misconduct, as complained of herein, and to seek restitution of
11 the amounts Defendants acquired through the unfair, unlawful, and fraudulent business practices
12 described herein.

13 69. Defendants' knowing conduct, as alleged herein, constitutes an unlawful and/or
14 fraudulent business practice, as set forth in California Business & Professions Code §§ 17200-
15 17208. Specifically, Defendants conducted business activities while failing to comply with the legal
16 mandates cited herein.

17 70. Defendants have clearly established a policy of accepting a certain amount of
18 collateral damage, as represented by the damages to Representative Plaintiff and to Class Members
19 herein alleged, as incidental to their business operations, rather than accept the alternative costs of
20 full compliance with fair, lawful, and honest business practices, ordinarily borne by their responsible
21 competitors and as set forth in legislation and the judicial record.

22 **SEVENTH CAUSE OF ACTION**
23 **PRIVATE ATTORNEYS GENERAL ACT CLAIM**
24 **(California Labor Code §§ 2699 *et seq.*)**

25 71. Representative Plaintiff incorporates in this cause of action each and every allegation
26 of the preceding paragraphs, with the same force and effect as though fully set forth herein.

27 72. California Labor Code § 2699(a) states:

28 Notwithstanding any other provision of the law, any provision of this code
that provides for a civil penalty to be assessed and collected by the Labor and
Workforce Development Agency or any of its departments, divisions,
commissions, boards, agencies, or employees, for a violation of this code,

1 may, as an alternative, be recovered through a civil action brought by an
2 aggrieved employee on behalf of herself or herself and other current or
3 former employees...

4 73. Representative Plaintiff is an “aggrieved employee,” as defined by California Labor
5 Code § 2699(c), because she was employed by Defendants and was one of many employees against
6 whom violations of law were committed.

7 74. Representative Plaintiff has met and/or will meet all of the requirements set forth in
8 California Labor Code § 2699.3 necessary to maintain a civil action against Defendants for
9 violations of California Labor Code §§ 200-204, inclusive, 226, 226.7, 510, 512, 1174, 1194, 1197,
10 1198 and/or 2802.

11 75. Representative Plaintiff brings this action on behalf of herself and all Class Members
12 alleging violations of California Labor Code §§ 200-204, inclusive, 226, 226.7, 510, 512, 1174,
13 1194, 1197, 1198 and/or 2802.

14 76. As a direct and proximate result of Defendants’ unlawful conduct, as set forth herein,
15 Class Members have sustained damages, including loss of earnings, in an amount to be established at
16 trial.

17 77. As a further direct and proximate result of Defendants’ unlawful conduct, as set forth
18 herein, Class Members are entitled to recover various penalties as provided by California Labor
19 Code § 2699, in an amount to be established at trial, as well as costs and attorneys’ fees, pursuant to
20 statute.

21 **RELIEF SOUGHT**

22 **WHEREFORE**, the Representative Plaintiff, on behalf of herself and the proposed Plaintiff
23 Class, prays for judgment and the following specific relief against Defendants, and each of them,
24 jointly and separately, as follows:

25 1. That the Court declare, adjudge, and decree that this action is a proper class action
26 and certify the proposed Class and/or any other appropriate subclasses pursuant to California Code
27 of Civil Procedure § 382;
28

1 2. That the Court make an award to Representative Plaintiff and Class Members of one
2 hour of wages at each employee's regular rate of compensation for each workday a meal period was
3 not provided;

4 3. That the Court make an award to Representative Plaintiff and Class Members of one
5 hour of wages at each employee's regular rate of compensation for each workday a rest period was
6 not authorized and permitted;

7 4. That the Court declare, adjudge, and decree that Defendants violated the wage
8 (including overtime) provisions of the California Labor Code and the applicable California Industrial
9 Welfare Commission Wage Order as to the Representative Plaintiff and Class Members;

10 5. That the Court declare, adjudge, and decree that Representative Plaintiff and Class
11 Members were, at all times relevant herein, entitled to overtime pay for work beyond eight hours in a
12 day and/or forty hours in a week;

13 6. That the Court declare, adjudge, and decree that Representative Plaintiff and Class
14 Members were, at all times relevant herein, entitled to reimbursement for necessary business
15 expenditures;

16 7. That the Court make an award to the Representative Plaintiff and Class Members of
17 damages and/or restitution for the amount of unpaid overtime compensation, including interest
18 thereon, and penalties in an amount to be proven at trial;

19 8. That the Court order Defendants to pay restitution to Representative Plaintiff and
20 Class Members as a result of Defendants' unlawful activities, pursuant to California Business and
21 Professions Code §§ 17200-17208;

22 9. That the Court further enjoin Defendants, ordering them to cease and desist from
23 unlawful activities in violation of California Business and Professions Code §§ 17200, *et seq.*;

24 10. For all other Orders, findings and determinations identified and sought in this
25 Complaint;

26 11. For interest on the amount of any and all economic losses, at the prevailing legal rate;

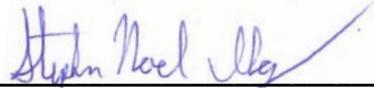
27 12. For reasonable attorneys' fees, pursuant to California Labor Code §§ 1194 and/or
28 California Code of Civil Procedure § 1021.5; and

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13. For costs of suit and any and all other such relief as the Court deems just and proper.

Dated: July 23, 2014

SCOTT COLE & ASSOCIATES, APC

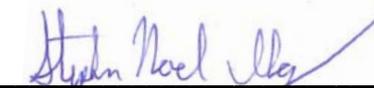
By: 
Stephen Noel Ilg, Esq.
Attorneys for the Representative Plaintiff
and the Plaintiff Class

JURY DEMAND

Representative Plaintiff and the Plaintiff Class hereby demand trial by jury of all issues triable as of right by jury.

Dated: July 23, 2014

SCOTT COLE & ASSOCIATES, APC

By: 
Stephen Noel Ilg, Esq.
Attorneys for the Representative Plaintiff
and the Plaintiff Class