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11 Attorneys for Representative Plaintiff
12 and the Plaintiff Class

13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **IN AND FOR THE COUNTY OF SAN DIEGO**

15 PASCAL JEANDEBIEN, individually,) **Case No. 37-2013-00038110-CU-DE-CTL**
16 and on behalf of all others similarly)
17 situated,) **CLASS ACTION**
18)
19 Plaintiff,) **COMPLAINT FOR DAMAGES,**
20) **INJUNCTIVE RELIEF AND RESTITUTION**
21 vs.)
22)
23 CERTIFIED TIRE AND SERVICE)
24 CENTERS, INC., and DOES 1 through) **[Jury Trial Demanded]**
25 100, inclusive,)
26)
27 Defendants.)

28 Representative Plaintiff alleges as follows:

PRELIMINARY STATEMENT

1. This is a class action, brought on behalf of Pascal Jeandebien (hereinafter “Representative Plaintiff”) and all other persons similarly situated (“Class Members”) who are or were employed as non-exempt technicians by defendants Certified Tire and Service Centers, Inc. and Does 1 through 100, inclusive (collectively “Defendant” and/or “Certified Tire”) in any Certified Tire and Service Centers store in California within the applicable class period. The Representative Plaintiff, on behalf of himself and the Class Members, seeks unpaid wages, including unpaid overtime compensation and interest thereon, liquidated damages and other

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Superior Court of California,
County of San Diego
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By Janet Krigbaum, Deputy Clerk

1 penalties, injunctive and other equitable relief, and reasonable attorneys' fees and costs under,
2 *inter alia*, Title 8 of the California Code of Regulations, California Business and Professions
3 Code §§ 17200, *et seq.*, California Code of Civil Procedure § 1021.5, and various provisions of
4 the California Labor Code.

5 2. The Class Period is designated as the time from March 6, 2009 through the date of
6 trial, based upon the allegation that the violations of California's wage and hour laws, as
7 described more fully below, have been ongoing throughout that time.

8 3. During the class period, Certified Tire has had a consistent policy of (1)
9 permitting, encouraging and/or requiring its non-exempt technicians, including the
10 Representative Plaintiff and Class Members, to work in excess of eight hours per day and in
11 excess of forty hours per week without paying them overtime compensation as required by
12 California's wage and hour laws, (2) willfully failing to provide Representative Plaintiff and
13 Class Members with statutorily-mandated meal and rest periods, and (3) willfully failing to pay
14 compensation (including unpaid overtime) in a prompt and timely manner to the Representative
15 Plaintiff and those Class Members whose employment with Certified Tire has terminated.

16 **INTRODUCTION**

17 4. Representative Plaintiff is informed and believes and, on that basis, alleges that,
18 within the Class Period, Certified Tire operated numerous service centers throughout California,
19 including those in which Representative Plaintiff has worked as a non-exempt technician. In
20 doing so, Certified Tire employed hundreds of individuals in California in recent years as non-
21 exempt technicians at its Certified Tire and Service Centers locations, employment positions
22 which enjoy an entitlement to full, uninterrupted and statutorily-mandated meal and rest periods,
23 as well as other benefits of employment as set forth herein.

24 5. Despite actual knowledge of these facts and legal mandates, Certified Tire has
25 and continues to enjoy an advantage over its competition and a resultant disadvantage to its
26 workers by electing not to pay all wages due (including overtime and missed meal and rest
27 period compensation) and/or all penalties dues (including "waiting time" penalties) to non-
28 exempt technicians at its Certified Tire and Service Centers locations.

PLAINTIFF

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2 11. Representative Plaintiff Pascal Jeandebien is a natural person who was employed
3 by Certified Tire and Service Centers as a non-exempt technician during the Class Period at one
4 or more of Defendant's California locations.

5 12. At all times herein relevant, the Representative Plaintiff was and is now a person
6 within the class of persons further described and defined herein.

7 13. As used throughout this Complaint, the term "Class Members" refers to the
8 Representative Plaintiff herein as well as each and every person eligible for membership in the
9 class of persons as further described and defined herein.

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

DEFENDANTS

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15 15. Representative Plaintiff is informed and believes and, on that basis, alleges that at
16 all times herein relevant, defendants Certified Tire and Does 1 through 100, was/is a corporation
17 and/or other form of business entity, duly licensed, located and doing business in, but not limited
18 to, the County of San Diego in the state of California.

19 16. Representative Plaintiff is informed and believes and, on that basis, alleges that
20 defendant Certified Tire directly or indirectly employs and, since March 6, 2009, has employed
21 and/or exercised control over the wages, hours and working conditions of Representative
22 Plaintiff and Class Members in various California counties, including, but not limited to, the
23 County of San Diego.

24 17. Those defendants identified as Does 1 through 100, inclusive, are and were, at all
25 relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some or
26 each of the remaining defendants. Representative Plaintiff is informed and believes and, on that
27 basis, alleges that at all relevant times herein mentioned, defendants Certified Tire and those
28 defendants identified as Does 1 through 100, inclusive, employed, and/or exercised control over

1 the wages, hours, and/or working conditions of the Representative Plaintiff and Class Members
2 at numerous California locations as identified in the preceding paragraph.

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

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

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16 **CLASS ACTION ALLEGATIONS**

17 20. The Representative Plaintiff brings this action on behalf of himself and as a class
18 action on behalf of all persons similarly situated and proximately damaged by Certified Tire's
19 conduct including, but not necessarily limited to, the following Plaintiff Class:

20 *All persons who were employed as non-exempt technicians by*
21 *Defendant in one or more of its Certified Tire and Service Center*
locations in California at any time on or after March 6, 2009.

22 21. Certified Tire, its officers, and directors are excluded from the Plaintiff Class.

23 22. This action has been brought and may properly be maintained as a class action
24 under California Code of Civil Procedure § 382 because there is a well-defined community of
25 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
27 and efficient adjudication of this controversy. The members of the
28 Plaintiff Class are so numerous that joinder of all members is
impractical, if not impossible, insofar as Representative Plaintiff is
informed and believes and, on that basis, alleges that there are
sufficient Class Members to meet the numerosity requirement.

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Membership in the Class will be determined upon analysis of employee and payroll, among other, records maintained by Certified Tire.

b. Commonality: The Representative 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 Defendant violated the applicable IWC Wage Order and/or California Labor Code § 510 by failing to pay overtime compensation to its non-exempt technicians who worked in excess of forty hours per week and/or eight hours per day;
- 2) Whether Defendant violated California Labor Code §§ 266.7 and/or 512 by failing to consistently provide duty-free meal and/or rest periods to its non-exempt technicians;
- 3) Whether Defendant violated California Labor Code § 1174 by failing to keep accurate records of employees' hours of work;
- 4) Whether Defendant violated California Labor Code §§ 201-204 by failing to pay all wages due and owed during the pendency of employment and/or at the time of the termination of employment of Representative Plaintiff and Class Members;
- 5) Whether Defendant violated California Labor Code § 226 by failing to provide semimonthly itemized statements to Class Members of the total hours worked by each and all applicable hourly rates in effect during the pay period;
- 6) Whether Defendant violated California Business and Professions Code § 17200, *et seq.* by engaging in unfair, unlawful and/or fraudulent business practices;
- 7) Whether Class Members are entitled to "waiting time" penalties, pursuant to California Labor Code § 203; and
- 8) Whether the Representative Plaintiff and Class Members are entitled to penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.*

c. Typicality: The Representative Plaintiff's claims are typical of the claims of Class Members. The Representative Plaintiff and Class Members sustained damages arising out of and caused by Defendant's common course of conduct in violation of law, as alleged herein.

d. Adequacy of Representation: The Representative Plaintiff in this class action is an adequate representative of the Plaintiff Class in that the 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. The

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Representative Plaintiff is committed to vigorous prosecution of this case and has retained competent counsel who are experienced in conducting litigation of this nature. The Representative Plaintiff is not subject to any individual defenses unique from those conceivably applicable to Class Members as a whole. The 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 impractical for Class Members to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought, or be required to be brought, by each individual Class Member, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants. The prosecution of separate actions would also create a risk of inconsistent rulings which might be dispositive of the interests of other Class Members who are not parties to the adjudications and/or may substantially impede their ability to adequately protect their interests.

COMMON FACTUAL ALLEGATIONS

23. As described herein, for years, Certified Tire has knowingly failed to adequately compensate those employees within the class definition identified above for all wages earned (including premium wages such as overtime wages and/or compensation for missed meal and/or rest periods) under the California Labor Code and the applicable IWC Wage Order, thereby enjoying a significant competitive edge over its competitors.

24. California Labor Code §§ 201 and 202 require Defendant to pay severed employees all wages due and owed to the employee immediately upon discharge or within 72 hours of resignation of their positions, in most circumstances. California Labor Code § 203 provides that an employer who willfully fails to timely pay such wages must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, and the payment of such penalty shall continue for a period of time up to 30 days.

25. Certified Tire has declined to pay these wages, even upon a Class Member's termination or resignation from employment, in blatant violation of California Labor Code §§ 201-204, inclusive.

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1 26. Furthermore, despite its knowledge of the Representative Plaintiff's and the Class
2 Members' entitlement to compensation for all hours worked, Defendant violated California
3 Labor Code § 1174(d) by failing to provide or require the use, maintenance, or submission of
4 time records by members of the class. Certified Tire also failed to provide the Representative
5 Plaintiff and Class Members with accurate semimonthly itemized statements of the total number
6 of hours worked by each, and all applicable hourly rates in effect, during the pay period, in
7 violation of California Labor Code § 226. In failing to provide the required documents,
8 Defendant has not only failed to pay its workers the full amount of compensation due but the
9 company has also, until now, effectively shielded itself from its employees' scrutiny by
10 concealing the magnitude and financial impact of its wrongdoing that such documents might
11 otherwise have led workers to discover.

12 27. Representative Plaintiff and all persons similarly situated are entitled to unpaid
13 compensation, yet, to date, have not received such compensation despite many of the same
14 having been terminated by and/or resigned from Certified Tire. More than 30 days have passed
15 since certain Class Members have left Defendant's employ.

16 28. As a consequence of Defendant's willful conduct in not paying former employees
17 compensation for all hours worked in a prompt and timely manner, Representative Plaintiff and
18 certain Class Members are entitled to up to 30 days wages as a penalty under California Labor
19 Code § 203, together with attorneys' fees and costs.

20 29. As a direct and proximate result of Defendant's unlawful conduct, as set forth
21 herein, Representative Plaintiff and Class Members have sustained damages, as described above,
22 including compensation for loss of earnings for hours worked on behalf of Defendant, in an
23 amount to be established at trial. As a further direct and proximate result of Defendant's
24 unlawful conduct, as set forth herein, certain Class Members are entitled to recover "waiting
25 time" penalties (pursuant to California Labor Code § 203) and penalties for failure to provide
26 semimonthly statements of hours worked and all applicable hourly rates (pursuant to California
27 Labor Code § 226) in an amount to be established at trial. As a further direct and proximate
28 result of Defendant's unlawful conduct, as set forth herein, Representative Plaintiff and Class

1 Members are also entitled to recover costs and attorneys' fees pursuant to California Labor Code
2 § 1194 and/or California Code of Civil Procedure § 1021.5, among other authorities.

3 30. Representative Plaintiff seeks injunctive relief prohibiting Defendant from
4 engaging in the complained-of illegal labor acts and practices in the future. Representative
5 Plaintiff also seeks restitution of costs incurred by Representative Plaintiff and Class Members
6 under California's Unfair Competition Law. Unless enjoined, Defendant's unlawful conduct will
7 continue unchecked, while Representative Plaintiff and Class Members bear the financial brunt
8 of Defendant's unlawful conduct. As a further direct and proximate result of Defendants
9 unlawful conduct, as set forth herein, Representative Plaintiff and the Plaintiff Class are also
10 entitled to recover costs and attorneys' fees, pursuant to statute.

11 31. Representative Plaintiff complied with the procedures for bringing suit specified
12 in California Labor Code § 2699.3. By letter dated March 6, 2009, Plaintiff gave written notice,
13 by certified mail, to the Labor and Workforce Development Agency ("LWDA") and Defendant
14 of the specific provisions of the California Labor Code alleged to have been violated, including
15 the facts and theories to support the alleged violations.

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17 **FIRST CAUSE OF ACTION**
18 **UNLAWFUL FAILURE TO PAY OVERTIME WAGES**
19 **(Violation of IWC Wage Order 7 and Labor Code §§ 510, 1194, and 1198)**

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

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

26 34. During the Class Period, Defendant refused to compensate the Representative
27 Plaintiff and Class Members for all of the overtime wages earned, in violation of the applicable
28 IWC Wage Order and provisions of the California Labor Code.

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1 35. Moreover, during said time period, many of the Class Members herein were
2 employed by and thereafter terminated or resigned from their positions with Certified Tire,
3 including Representative Plaintiff, yet were not paid all wages due upon said termination or
4 within 72 hours of said resignation of employment therefrom. Said non-payment of all wages
5 due was the direct and proximate result of a willful refusal to do so by Certified Tire.

6 36. At all relevant times, Defendant was aware of, and was under a duty to comply
7 with, the overtime provisions of the California Labor Code including, but not limited to,
8 California Labor Code §§ 510, 1194, and 1198.

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

10 Any work in excess of eight hours in one workday and any work in
11 excess of 40 hours in any one workweek and the first eight hours
12 worked on the seventh day of work in any one workweek shall be
13 compensated at the rate of no less than one and one-half times the
14 regular rate of pay for an employee

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

16 Notwithstanding any agreement to work for a lesser wage, any
17 employee receiving less than the legal minimum wage or the legal
18 overtime compensation applicable to the employee is entitled to
19 recover in a civil action the unpaid balance of the full amount of
20 this minimum wage or overtime compensation, including interest
21 thereon, reasonable attorneys' fees, and costs of suit.

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

23 The maximum hours of work and the standard conditions of labor
24 fixed by the commission shall be the maximum hours of work and
25 the standard conditions of labor for employees. The employment of
26 any employee for longer hours than those fixed by the order or
27 under conditions of labor prohibited by the order is unlawful.

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

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

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SECOND CAUSE OF ACTION
FAILURE TO PROVIDE MEAL AND REST PERIODS
(California Labor Code §§ 226.7 and 512)

42. 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.

43. At all relevant times, Certified Tire was aware of and was under a duty to comply with California Labor Code § 226.7 and § 512.

44. California Labor Code § 226.7 provides:

- (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- (b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

45. Moreover, California Labor Code § 512(a) 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 not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not 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.

46. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that employers provide all applicable meal and/or rest periods to non-exempt employees.

47. Section 11 of the applicable IWC Wage Order provides:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes...
- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes...

1 (C) If an employer fails to provide an employee a meal period in
2 accordance with the applicable provisions of this order, the
3 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.

4 48. Moreover, Section 12 of the applicable IWC Wage Order provides:

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

9 (B) If an employer fails to provide an employee a rest period in
10 accordance with the applicable provisions of this order, the
11 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.

12 49. By failing to consistently provide uninterrupted thirty-minute meal periods within
13 the first five hours of work each day and/or uninterrupted net ten-minute rest periods to
14 Representative Plaintiff and the Class Members, Defendant violated the California Labor Code
15 and applicable IWC Wage Order provisions.

16 50. Representative Plaintiff is informed and believes and, on that basis, alleges that
17 Defendant has never paid the one hour of compensation to any Class Member due to its
18 violations of the California Labor Code and applicable IWC Wage Order provisions.

19 51. As a direct and proximate result of Certified Tire's unlawful conduct, as set forth
20 herein, Representative Plaintiff and Class Members have sustained damages, including lost
21 compensation resulting from missed meal and/or rest periods, in an amount to be established at
22 trial.

23 52. As a further direct and proximate result of Defendant's unlawful conduct, as set
24 forth herein, certain Class Members are entitled to recover "waiting time" and other penalties, in
25 amounts to be established at trial, as well as recovery of attorneys' fees and costs, pursuant to
26 statute.

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

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 § 226(a) provides:

Each employer shall semimonthly, or at the time of each payment of 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 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.

55. 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.

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

Every person employing labor in this state shall. . . [k]eep, 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.

57. Representative Plaintiff seeks to recover actual damages, costs, and attorneys' fees under these provisions on behalf of himself and on behalf of all Class Members.

58. Defendant has failed to provide timely, accurate itemized wage statements to the Representative Plaintiff and Class Members in accordance with California Labor Code § 226.

1 Representative Plaintiff is informed and believes and, on that basis, alleges that none of the
2 statements provided by Defendant accurately reflected actual gross wages earned, net wages
3 earned, or the appropriate deductions of such Class Members.

4 59. As a direct and proximate result of Defendant’s unlawful conduct, as set forth
5 herein, the Representative Plaintiff and Class Members have sustained damages in an amount to
6 be established at trial, and are entitled to recover attorneys’ fees and costs of suit.

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

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

13 61. California Labor Code § 203 provides that:
14 If an employer willfully fails to pay, without abatement or reduction, in
15 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
16 employee who is discharged or who quits, the wages of the employee shall
17 continue as a penalty from the due date thereof at the same rate until paid or
18 until an action therefor is commenced; but the wages shall not continue for
19 more than 30 days.

20 62. Numerous Class Members, including Representative Plaintiff, were employed by
21 Certified Tire during the class period and were thereafter terminated or resigned from their
22 positions, yet they were not paid all premium (overtime) wages due upon said termination or
23 within 72 hours of said resignation of employment therefrom. Said non-payment was the direct
24 and proximate result of a willful refusal to do so by Certified Tire.

25 63. More than 30 days have elapsed since certain Class Members were involuntarily
26 terminated or voluntarily resigned from Defendant’s employ.

27 64. As a direct and proximate result of Defendant’s willful conduct in failing to pay
28 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.

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

3 71. Representative Plaintiff is an “aggrieved employee” as defined by California
4 Labor Code § 2699(c) because he was employed by Defendant and was one of many employees
5 against whom violations of the law were committed.

6 72. Representative Plaintiff has met and/or will meet all of the requirements set forth
7 in California Labor Code § 2699.3 necessary to commence a civil action against Defendants for
8 violations of California Labor Code §§ 226.7 and 512.

9 73. Plaintiff brings this action on behalf of himself and all Class Members who have
10 not received meal and rest periods as they are entitled under California Labor Code §§ 226.7 and
11 512. As a direct and proximate result of Defendant’s unlawful conduct, as set forth herein, Class
12 Members have sustained damages, including loss of earnings, in an amount to be established at
13 trial. As a further direct and proximate result of Defendant’s unlawful conduct, as set forth
14 herein, Class Members are entitled to recover various penalties as provided by California Labor
15 Code § 2699, in an amount to be established at trial, as well as costs and attorneys’ fees, pursuant
16 to statute.

17 **RELIEF SOUGHT**

18 **WHEREFORE, the Representative Plaintiff**, on behalf of himself and the proposed
19 Plaintiff Class, prays for judgment and the following specific relief against Defendants, and each
20 of them, jointly and separately, as follows:

21 1. That the Court declare, adjudge, and decree that this action is a proper class action
22 and certify the proposed Class and/or any other appropriate subclasses under California Code of
23 Civil Procedure § 382;

24 2. That the Court declare, adjudge, and decree that Defendants violated the overtime
25 provisions of the California Labor Code and the applicable California Industrial Welfare
26 Commission Wage Order as to the Representative Plaintiff and Class Members;

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1 3. That the Court declare, adjudge, and decree that Defendant willfully violated its
2 legal duties to pay overtime under the California Labor Code and the applicable California
3 Industrial Welfare Commission Wage Orders;

4 4. That the Court make an award to the Representative Plaintiff and the Class
5 Members of one hour of pay at each employee's regular rate of compensation for each workday
6 that a meal period was not provided;

7 5. That the Court make an award to the Representative Plaintiff and the Class
8 Members of one hour of pay at each employee's regular rate of compensation for each workday
9 that a rest period was not provided;

10 6. That the Court declare, adjudge, and decree that the Representative Plaintiff and
11 Class Members were, at all times relevant hereto, and are still, entitled to be paid overtime for
12 work beyond 8 hours in a day and/or 40 hours in a week;

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

16 8. That the Court order Defendant to pay restitution to the Representative Plaintiff
17 and the Class Members due to Defendant's unlawful activities, pursuant to California Business
18 and Professions Code §§ 17200-17208;

19 9. That the Court further enjoin Defendant, ordering it to cease and desist from
20 unlawful activities in violation of California Business and Professions Code § 17200, *et seq.*

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

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

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

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

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Dated: March 7, 2013

SCOTT COLE & ASSOCIATES, APC

By: /s/ Jessica L. Campbell
Jessica L. Campbell, Esq.
Attorneys for Representative Plaintiff
and the Plaintiff Class

JURY DEMAND

Representative Plaintiff, on behalf of himself and the Plaintiff Class, hereby demands a trial by jury.

Dated: March 7, 2013

SCOTT COLE & ASSOCIATES, APC

By: /s/ Jessica L. Campbell
Jessica L. Campbell, Esq.
Attorneys for Representative Plaintiff
and the Plaintiff Class