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Superior Court of California
County of Los Angeles

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FAXED

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 LOS ANGELES**

15 KARINA WHITTEN, individually,
16 and on behalf of all others similarly
17 situated,

18 Plaintiff,

19 vs.

20 TILLY'S, INC., and DOES 1 through
21 100, inclusive,

22 Defendants.

) Case No. BC548252

) CLASS ACTION

) **FIRST AMENDED COMPLAINT FOR
23 DAMAGES, INJUNCTIVE RELIEF AND
24 RESTITUTION**

) [Assigned to Hon. William F. Highberger]

) [Jury Trial Demanded]

25 Representative Plaintiff alleges as follows:

26 **PRELIMINARY STATEMENT**

27 1. This is a class action, brought on behalf of Karina Whitten (hereinafter
28 "Representative Plaintiff" or "Plaintiff") and all other persons similarly situated ("Class Members")
who are or were employed as non-exempt retail store employees by defendants Tilly's, Inc., and
Does 1 through 100, inclusive (collectively "Defendant" and/or "Tilly's") in any Tilly's store in
California within the applicable class period. The Representative Plaintiff, on behalf of herself and
the Class Members, seeks unpaid wages, including unpaid overtime compensation and interest
thereon, liquidated damages and other penalties, injunctive and other equitable relief, and reasonable

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

4 2. The Class Period is designated as the time from June 9, 2010 through the date of trial,
5 based upon the allegation that the violations of California's wage and hour laws, as described more
6 fully below, have been ongoing throughout that time.

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

20 **INTRODUCTION**

21 4. Plaintiff is informed and believes and, based thereon, alleges that, within the Class
22 Period, Defendant operated at least 82 retail establishments across the State of California. In doing
23 so, Defendant has employed hundreds if not thousands of individuals in non-exempt retail positions
24 which are entitled to full, uninterrupted and statutorily-mandated meal and rest periods, as well as
25 other benefits of employment as set forth herein.

26 5. Despite actual knowledge of these facts and legal mandates, Tilly's has and continues
27 to enjoy an advantage over its competition and a resultant disadvantage to its workers by electing not
28 to sufficiently offer meal and rest periods to its California non-exempt retail employees, by not

1 providing duty free and uninterrupted meal and rest periods to its California non-exempt employees,
2 by not providing all regular and/or overtime pay when due and/or when certain Class Members'
3 employment with Tilly's terminated, and by willfully failing to provide Plaintiff and Class Members
4 with accurate semi-monthly itemized wage statements.

5 6. Plaintiff is informed and believes and, based thereon alleges that officers of Tilly's
6 knew of these facts and legal mandates yet, nonetheless, repeatedly authorized and/or ratified the
7 violation of the laws cited herein.

8 7. Despite Defendant's knowledge of Plaintiff's and Class Members' entitlement to
9 these benefits of employment, Tilly's failed to provide same, for all applicable work periods, in
10 violation of California state statutes, California Industrial Welfare Commission Wage Order No. 7,
11 and Title 8 of the California Code of Regulations. This action is brought to redress and end this long-
12 time pattern of unlawful conduct once and for all.

13 **JURISDICTION AND VENUE**

14 8. This Court has jurisdiction over the Representative Plaintiff's and Class Members'
15 claims for unpaid wages, penalties and other forms of relief sought herein under, *inter alia*,
16 Industrial Welfare Commission Wage Order No. 7, Title 8 of the California Code of Regulations,
17 Labor Code §§ 201-204, inclusive, 226, 226.7, 510, 512, 1174, 1194, 1198 and 2699, and California
18 Code of Civil Procedure § 1021.5.

19 9. This Court also has jurisdiction over the Representative Plaintiff's and Class
20 Members' claims for injunctive relief and restitution of ill-gotten benefits arising from Defendant's
21 unfair, unlawful, and/or fraudulent business practices under California Business & Professions Code
22 § 17200, *et seq.*

23 10. Venue as to Defendant is proper in this judicial district pursuant to California Code of
24 Civil Procedure § 395(a). Defendant maintains locations within Los Angeles County, transacts
25 business, has agents, and is otherwise within this Court's jurisdiction for purposes of service of
26 process. The unlawful acts alleged herein have a direct effect on the Plaintiff and those similarly
27 situated within the State of California and County of Los Angeles. Defendant operates facilities and
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1 has employed numerous Class Members in the County of Los Angeles, as well as within other
2 counties across the State of California.

3 **PLAINTIFF**

4 11. Plaintiff Karina Whitten is a natural person and was, during the relevant time period
5 identified herein, employed by Defendant Tilly's as a non-exempt retail store employee at one or
6 more of Defendant's California retail stores.

7 12. At all times herein relevant, Plaintiff Whitten was and is now an individual within the
8 Class of persons further described and defined herein.

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

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

15 **DEFENDANT**

16 15. At all times herein relevant, Defendant Tilly's, Inc. was/is a corporation and/or other
17 form of business entity, duly licensed, located and doing business in, but not limited to, the County
18 of Los Angeles, in the State of California.

19 16. Plaintiff is informed and believes and, based thereon, alleges that Defendant Tilly's
20 directly or indirectly employs and has employed and/or exercised control over the wages, hours and
21 working conditions of Plaintiff and Class Members within various California counties, including, but
22 not limited to, the County of Los Angeles.

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

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

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

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

14 **CLASS ACTION ALLEGATIONS**

15 20. Plaintiff brings this action on behalf of herself and as a class action on behalf of the
16 following Plaintiff Class:

17 *All persons who are and/or were employed as non-exempt retail employees by*
18 *Tilly's, Inc. in one or more California Tilly's retail stores between June 9, 2010 and*
19 *the present.*

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

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

24 a. Numerosity: A class action is the only available method for the fair and
25 efficient adjudication of this controversy. The members of the Plaintiff Class
26 are so numerous that joinder of all members is impractical, if not impossible,
27 insofar as Plaintiff is informed and believes and, on that basis, alleges that the
28 total number of Class Members is, at least, in the hundreds of individuals.
Membership in the Class will be determined by and upon analysis of
employee and payroll records, among other records maintained by Tilly's.

b. Commonality: Plaintiff and the Class Members share a community of
interests in that there are numerous common questions and issues of fact and

1 law which predominate over any questions and issues solely affecting
individual members, including, but not necessarily limited to:

- 2 1) Whether defendant Tilly's violated California Labor Code §§ 226.7
3 and/or 512 by failing to consistently provide duty-free meal periods
and/or rest periods to its non-exempt retail employees;
- 4 2) Whether defendant Tilly's violated applicable IWC Wage Order(s)
5 and/or California Labor Code § 510 by failing to pay all (including
6 overtime) compensation to its non-exempt retail employees who
worked in excess of forty hours per week and/or eight hours per day;
- 7 3) Whether defendant Tilly's violated California Labor Code § 1174 by
8 failing to keep accurate records of Plaintiff's and Class Members'
hours of work;
- 9 4) Whether defendant Tilly's violated California Labor Code §§ 201-
10 204 by failing to pay all wages due and owed during the pendency of
employment and/or at the time of the termination of employment with
Defendant of Plaintiff and/or Class Members;
- 11 5) Whether defendant Tilly's violated California Labor Code § 226 by
12 failing to provide Plaintiff and Class Members with semimonthly
13 itemized statements including total hours worked and all applicable
hourly rates in effect during the pay period; and
- 14 6) Whether defendant Tilly's violated Business and Professions Code §§
15 17200, *et seq.* by engaging in unfair, unlawful and/or fraudulent
business practices.

16 c. Typicality: Plaintiff's claims are typical of the claims of the Plaintiff Class.
17 Plaintiff and all members of the Plaintiff Class sustained damages arising out
of and caused by Defendant's common course of conduct in violation of law,
18 as alleged herein.

19 d. Adequacy of Representation: Plaintiff in this class action is an adequate
20 representative of the Plaintiff Class in that Plaintiff's claims are typical of
those of the Plaintiff Class and Plaintiff has the same interest in the litigation
21 of this case as the Class Members. Plaintiff is committed to vigorous
prosecution of this case and has retained competent counsel who is
22 experienced in conducting litigation of this nature. Plaintiff is not subject to
any individual defenses unique from those conceivably applicable to Class
23 Members as a whole. Plaintiff anticipates no management difficulties in this
litigation.

24 e. Superiority of Class Action: Since the damages suffered by individual Class
25 Members, while not inconsequential, may be relatively small, the expense
and burden of individual litigation by each member makes or may make it
26 impractical for members of the Plaintiff Class to seek redress individually for
the wrongful conduct alleged herein. Should separate actions be brought, or
27 be required to be brought, by each individual member of the Plaintiff Class,
the resulting multiplicity of lawsuits would cause undue hardship and
28 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

1 and/or may substantially impede their ability to adequately protect their
2 interests.

3 **COMMON FACTUAL ALLEGATIONS**

4 23. Defendant Tilly's has, for years, knowingly failed to properly compensate Plaintiff
5 and the Plaintiff Class for all wages earned and due (including, but not necessarily limited to,
6 overtime wages and/or compensation for missed meal and/or rest periods). Defendant has declined to
7 pay these wages, even upon a Class Member's termination or resignation from employment, in
8 blatant violation of California Labor Code §§ 201-204, inclusive. More than 30 days have passed
9 since Plaintiff and certain Class Members have left Defendant's employ.

10 24. Moreover, Defendant has failed to provide Plaintiff and the Plaintiff Class with net
11 ten minute rest periods for work shifts exceeding four hours or a major fraction thereof, and has
12 failed to provide uninterrupted, unrestricted meal periods of at least 30 minutes for work shifts
13 exceeding five hours.

14 25. Defendant also failed to provide Plaintiff and Class Members with accurate
15 semimonthly itemized statements of the total number of hours worked by each, and all applicable
16 hourly rates in effect during each pay period, in violation of California Labor Code § 226. In doing
17 so, Defendant has not only failed to pay its workers the full amount of compensation due, it has, until
18 now, effectively shielded itself from its employees' scrutiny for its unlawful conduct by concealing
19 the magnitude (e.g., the full number of hours worked) and financial impact of its wrongdoing.

20 26. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
21 Plaintiff and Class Members have sustained damages, as described above, including loss of earnings
22 for uncompensated hours worked, missed meal periods, and missed rest periods, in an amount to be
23 established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set
24 forth herein, Plaintiff and Class Members are entitled to recover penalties/wages (pursuant to
25 California Labor Code §§ 201-204) for failure to provide semimonthly itemized wage statements of
26 hours worked and all applicable hourly rates (pursuant to California Labor Code § 226) in an amount
27 to be established at trial. As a further direct and proximate result of Defendant's unlawful conduct,
28

1 as set forth herein, Plaintiff and Class Members are also entitled to recover attorneys' fees, litigation
2 costs, and restitution of ill-gotten gains, pursuant to statute.

3 27. Plaintiff complied with the procedures for bringing suit specified in California Labor
4 Code § 2699.3. By letter dated June 9, 2014, Plaintiff gave written notice, by certified mail, to the
5 Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of
6 the California Labor Code alleged to have been violated, including the facts and theories to support
7 those violations.

8
9 **FIRST CAUSE OF ACTION**
10 **FAILURE TO PROVIDE MEAL AND REST PERIODS**
11 **(California Labor Code §§ 226.7 and 512)**

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

14 29. At all relevant times, Defendant was aware of and was under a duty to comply with
15 California Labor Code §§ 226.7 and 512.

16 30. California Labor Code §226.7 provides:

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

26 31. Moreover, California Labor Code § 512 provides:

27 An employer may not employ an employee for a work period of more than five hours
28 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.

1 32. By failing to consistently provide uninterrupted and unrestricted meal and rest periods
2 to Class Members, Defendant violated California Labor Code §§ 226.7 and/or 512, and §§ 11 and 12
3 of the IWC Wage Order No. 7.

4 33. Section 11 of this Wage Order provides:

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

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

9 (C) If an employer fails to provide an employee a meal period in
10 accordance with 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.

11 34. Moreover, Section 12 of this Wage Order provides:

12 (A) Every employer shall authorize and permit all employees to take rest
13 periods, 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
14 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or
major fraction thereof

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

18 35. By failing to consistently provide full, uninterrupted and duty-free meal breaks of no
19 less than thirty-minutes, and/or ten-minute rest periods to Class Members, Defendant violated
20 California Labor Code and IWC Wage Order provisions.

21 36. Defendant's mandatory security checks and infringed on Plaintiff's and putative Class
22 Members' meal and rest breaks. As a result of the time spent undergoing security checks, employees
23 were denied the full period for meal and/or rest breaks, in violation of applicable law.

24 37. Plaintiff is informed and believes and, on that basis, alleges that Defendant has never
25 paid the one hour of compensation to any Class Member due to its violations of the California Labor
26 Code and applicable IWC Wage Order provisions.

27 38. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
28 Plaintiff and Class Members have sustained damages, including lost compensation resulting from

1 missed meal and/or rest periods, in an amount to be established at trial. As a further direct and
2 proximate result of Defendant’s unlawful conduct, as set forth herein, certain Class Members are
3 entitled to recover “waiting time” and other penalties, in amounts to be established at trial, as well as
4 attorneys’ fees and costs, and restitution, pursuant to statute.

5
6 **SECOND CAUSE OF ACTION**
7 **UNLAWFUL FAILURE TO PAY WAGES**
8 **(Violation of IWC Wage Order and Labor Code §§ 200-204, 510, 1194, and 1198)**

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

11 40. During the Class Period, Plaintiff and Class Members performed work for Tilly’s,
12 oftentimes in excess of eight hours in a workday and/or forty hours in a workweek. The precise
13 number of hours will be proven at trial.

14 41. During the Class Period, Defendant refused to compensate Plaintiff and Class
15 Members for all of the wages earned, in violation of the applicable IWC Wage Order and provisions
16 of the California Labor Code.

17 42. Defendant refused to compensate employees for time spent undergoing mandatory
18 security checks after employees clocked out at the end of a shift or at the beginning of a meal or rest
19 break. To date, employees have never been compensated for time spent in these security checks.

20 43. Similarly, Defendant refused to compensate employees for missed breaks when
21 security checks and/or job requirements caused employees to receive less than 30 uninterrupted and
22 duty-free minutes for meal breaks or 10 uninterrupted and duty-free minutes for rest breaks.

23 44. Moreover, during the Class Period, many of the Class Members herein were
24 employed by and thereafter terminated or resigned from their positions with Tilly’s, yet were not
25 paid all wages due upon said termination or within 72 hours of said resignation of employment
26 therefrom. Said non-payment of all wages due was the direct and proximate result of a willful refusal
27 to do so by Tilly’s.
28

1 45. At all relevant times, Defendant was aware of, and was under a duty to comply with,
2 the wage (including overtime wage) provisions of the California Labor Code including, but not
3 limited to, California Labor Code §§ 200-204, 510, 1194 and 1198.

4 46. California Labor Code § 510, in pertinent part, provides:

5 Any work in excess of eight hours in one workday and any work in excess of
6 40 hours in any one workweek and the first eight hours worked on the
7 seventh day of work in any one workweek shall be compensated at the rate of
8 no less than one and one-half times the regular rate of pay for an employee ...

8 47. California Labor Code § 1194, in pertinent part, provides:

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

13 48. Finally, California Labor Code § 1198, in pertinent part, provides:

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

17 49. Numerous Class Members were employed by Tilly's during the class period and were
18 thereafter terminated or resigned from their positions, yet they were not paid all premium (overtime)
19 wages due upon said termination or within 72 hours of said resignation of employment therefrom.
20 Said non-payment was the direct and proximate result of a willful refusal to do so by Tilly's.

21 50. More than thirty days have elapsed since certain Class Members were involuntarily
22 terminated or voluntarily resigned from Defendant's employ.

23 51. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
24 Plaintiff and the Plaintiff Class have sustained damages, including loss of earnings for hours of
25 overtime worked on behalf of Tilly's, in an amount to be established at trial. As a further direct and
26 proximate result of Defendant's unlawful conduct, as set forth herein, Plaintiff and the Plaintiff Class
27 are entitled to recover penalties (including "waiting time" penalties of up to thirty days' wages,
28

1 pursuant to California Labor Code § 203) in amounts to be established at trial, as well as attorneys'
2 fees and costs, and restitution, pursuant to statute.

3
4 **THIRD CAUSE OF ACTION**
5 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
6 **(California Labor Code §§ 226 and 1174)**

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

9 53. California Labor Code § 226(a) provides:

10 Each employer shall semi-monthly, or at the time of each payment of wages,
11 furnish each of his or her employees either as a detachable part of the check,
12 draft or voucher paying the employee's wages, or separately when wages are
13 paid by personal check or cash, an itemized wage statement in writing
14 showing: (1) gross wages earned; (2) total number of hours worked by each
15 employee whose compensation is based on an hourly wage; (3) all
16 deductions, provided that all deductions made on written orders of the
17 employee may be aggregated and shown as one item; (4) net wages earned;
18 (5) the inclusive date of the period for which the employee is paid; (6) the
19 name of the employee and his or her social security number; and (7) the name
20 and address of the legal entity which is the employer.

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

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

55. 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.

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

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**SIXTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT CLAIM
(California Labor Code §§ 2699)**

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63. 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.

64. California Labor Code § 2699(a) states:

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

65. Plaintiff (and each and every other Class Member) are “aggrieved employees,” as defined by California Labor Code § 2699(c), because they were employed by Defendant and were among the many employees against whom violations of law were committed.

66. Plaintiff has met and/or will meet all of the requirements set forth in California Labor Code § 2699.3 necessary to maintain a civil action against Defendant for violations of (and/or recovery under) California Labor Code §§ 200-204, inclusive, 226, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, and/or 1198.

67. Plaintiff brings this action on behalf of herself and all Class Members alleging violations of the California Labor Code sections cited in the preceding paragraph.

68. As a direct and proximate result of Defendant’s unlawful conduct, as set forth herein, Plaintiff and Class Members have sustained damages, including loss of earnings, in an amount to be established at trial.

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

RELIEF SOUGHT

1
2 **WHEREFORE**, the Representative Plaintiff, on behalf of herself and the proposed Plaintiff
3 Class, prays for judgment and the following specific relief against Defendants, and each of them,
4 jointly and separately, as follows:

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

8 2. That the Court make an award to Plaintiff and Class Members of one hour of wages at
9 each employee’s regular rate of compensation for each duty-free, uninterrupted meal period that was
10 not provided;

11 3. That the Court make an award to Plaintiff and Class Members of one hour of wages at
12 each employee’s regular rate of compensation for each workday that a duty-free, uninterrupted rest
13 period was not provided;

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

17 5. That the Court declare, adjudge, and decree that Plaintiff and Class Members were, at
18 all times relevant herein, and are still, entitled to be paid overtime for work beyond eight hours in a
19 day and forty hours in a week;

20 6. That the Court make an award to Plaintiff and Class Members of damages and/or
21 restitution for the amount of unpaid overtime compensation, including interest thereon, and penalties
22 in an amount to be proven at trial;

23 7. That the Court order Defendant to pay restitution to Plaintiff and Class Members due
24 to Defendant’s unlawful activities, pursuant to California Business and Professions Code §§ 17200-
25 17208;

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

28

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- 9. For all other Orders, findings and determinations identified and sought in this Complaint;
- 10. For interest on the amount of any and all economic losses at the prevailing legal rate;
- 11. For reasonable attorneys' fees, pursuant to California Labor Code §§1194 and/or California Code of Civil Procedure § 1021.5; and
- 12. For costs of suit and any and all other such relief as the Court deems just and proper.

Dated: December 3, 2014

SCOTT COLE & ASSOCIATES, APC

By: 

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

JURY DEMAND

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

Dated: December 3, 2014

SCOTT COLE & ASSOCIATES, APC

By: 

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