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ALAMEDA COUNTY

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

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JOSIE BEAUCHAMP and REGINALD BETHANCOURT, individually and on behalf of themselves, the general public, and all others similarly situated,

Plaintiffs,

vs.

KAISER FOUNDATION HOSPITALS, a California corporation, and DOES 1 through 100, inclusive,

Defendants.

) Case No. RG07307245
) CLASS AND REPRESENTATIVE ACTION
) FIRST AMENDED COMPLAINT FOR DAMAGES, PENALTIES, AND RESTITUTION
)
) 1) Unpaid Overtime in Violation of California Labor Code, Section 510 and Wage Orders No. 4-2001;
) 2) Failure to Provide Meal and Rest Periods (Labor Code, Section 226.7 and Industrial Wage Order No. 4-2001;
) 3) Waiting Penalties Pursuant to California Labor Code, Sections 201 - 203;
) 4) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Labor Code, Section 226(a); and
) 5) Unfair Competition in Violation of Business & Professions Code, Section 17200, et seq.

Complaint Filed: January 22, 2007

23 Plaintiffs, JOSIE BEAUCHAMP and REGINALD BETHANCOURT, on behalf of themselves,
24 the general public, and all others similarly situated, alleges as follows:

25 **PRELIMINARY ALLEGATIONS**

26 1. Plaintiffs are informed and believe and thereon allege, that Defendant, KAISER
27 FOUNDATION HOSPITALS (hereinafter referred to as "KAISER"), is, and at all times herein
28 mentioned was, a corporation, organized and existing under the laws of the State of California, with its

1 principal place of business at One Kaiser Plaza, 19th Floor, Oakland, CA 94612.

2 2. The true names and capacities of Defendants, Does 1 through 100, inclusive, are unknown
3 to Plaintiffs who therefore sue said Defendants under such fictitious names. Plaintiffs will amend this
4 First Amended Complaint to insert their true names and capacities when the same have been ascertained.

5 3. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants named
6 herein as Does 1 through 100, inclusive, is, and at all times herein mentioned was, an agent, employee,
7 partner, associate, principal, joint venturer, parent company, subsidiary, affiliated company, predecessor,
8 successor or assignee of the named Defendant and was acting at all times within the course and scope
9 of that relationship and that each of the fictitiously named Defendants consented to, authorized, and/or
10 ratified the acts alleged herein by the named Defendant and is a joint employer of plaintiffs and/or all
11 other class members as defined herein below.

12 4. Plaintiffs are informed and believe and thereon allege that each of the Defendants named
13 herein as Does 1 through 100 is responsible in some manner for the events, happenings and occurrences
14 herein alleged and that any reference to "Defendant" or "Defendants" shall mean "Defendants and each
15 of them".

16 5. Plaintiffs are informed and believe and thereon allege, that at all times herein mentioned,
17 KAISER and Does 1 through 100, inclusive, were joint employers of Plaintiffs and all others similarly
18 situated in the State of California.

19 6. Plaintiffs are informed and believe and thereon allege that KAISER owns and operates
20 community hospitals and outpatient facilities in several states, as well as providing or arranging hospital
21 services, and providing support services to Kaiser Permanente and Kaiser Foundation Health Plans,
22 which serve the healthcare needs of millions of members in nine states and in Washington D.C.

23 7. Plaintiff, Josie Beauchamp, was employed by Defendant in the State of California, from
24 in or about July 2000 to in or about July 2006, as a consultant specialist, performing the job functions
25 of a systems analyst and audit coordinator.

26 8. Plaintiff, Reginald Bethancourt, was employed by Defendant in the State of California,
27 from in or about 1999 to in or about March 2006, as both a Senior Programmer Analyst and Senior
28 Production Support performing the job functions of programmer analyst and internal technical support.

1 9. Defendants are individually, jointly and severally liable for the acts herein alleged as the
2 employer of the named Plaintiffs and each Plaintiffs' class member because each Defendant, directly
3 or indirectly, or through an agent or any other person, employed or exercised control over the wages,
4 hours and working conditions of Plaintiffs and each Class member.

5 JURISDICTION

6 10. The California Superior Court has jurisdiction over this action pursuant to California
7 Constitution, Article VI, Section 10, which grants the Superior Court original "jurisdiction in all causes
8 except those given by statute to other trial courts." The statutes under which this action is brought do
9 not specify any other basis or court for jurisdiction and the amount of monetary damages claimed by
10 Plaintiffs exceeds the minimum jurisdiction of this Court.

11 11. Plaintiffs are informed and believe and thereon allege that the California Superior Court
12 has jurisdiction over KAISER because KAISER is a California corporation with its principal place of
13 business in the County of Alameda, State of California, it employs numerous California residents as
14 employees within the State of California, conducts substantial business in the State of California, and
15 has availed itself of the California market so as to render the exercise of jurisdiction by the California
16 courts consistent with the judicial notions of fair play and substantial justice.

17 VENUE

18 12. Venue is proper in the County of Alameda because Plaintiffs are informed and believe and
19 thereon allege that KAISER is a California corporation with its principal place of business in the City
20 of Oakland, County of Alameda, State of California.

21 CLASS AND REPRESENTATIVE ALLEGATIONS

22 13. Plaintiffs bring this action on their own behalf, on behalf of the general public, and on
23 behalf of all persons similarly situated within the following classes:

24 A) Class "A" is defined as all current or former employees employed within the State of
25 California by Defendant who perform the job functions of systems analyst, operations analyst,
26 programmer analyst, production support, technical support and/or audit coordinator no matter what their
27 job title is, including, but not limited to, consultant specialist, systems analyst, senior programmer
28 analyst, programmer analyst, production support, and operations analyst, within four years of the filing

1 of the original complaint until date of judgment, who performed work in excess of eight hours in one
2 day and/or forty hours in one week, and did not receive overtime compensation as required by Labor
3 Code, Section 510, and Wage Order, No. 4-2001, Section 3, for the period commencing four years prior
4 to the date of the filing of the original complaint and continuing through the date of judgment.

5 B) Class "B" is defined as all current or former employees employed within the State of
6 California by Defendant who perform the job functions of systems analyst, programmer analyst,
7 production support, technical support, operations analyst, and/or audit coordinator no matter what their
8 job title is, including, but not limited to, consultant specialist, systems analyst, senior programmer
9 analyst, programmer analyst, production support, and operations analyst, within four years of the filing
10 of the original complaint until the date of entry of judgment, who were not provided a thirty minute meal
11 period after working more than five hours per day pursuant to Labor Code, Sections 226.7 and Section
12 512, and Wage Orders No. 4-2001, Section 11, and/or who were not provided a ten minute rest period
13 every four hours worked as required by Section 226.7 of the Labor Code and Wage Order No. 4-2001,
14 Section 12.

15 C) Class "C" is defined as all current or former employees employed within the State
16 of California by Defendant who perform the job functions of systems analyst, programmer analyst,
17 production support, technical support, and/or audit coordinator no matter what their job title is,
18 including, but not limited to, consultant specialist, systems analyst, senior programmer analyst,
19 programmer analyst, production support, and operations analyst, within four years of the filing of the
20 original complaint until the date of entry of judgment, who were not furnished, either as a detachable
21 part of the check, draft or voucher paying the employees wages, separately when wages were paid by
22 personal check or cash, an accurate itemized statement in writing showing the total hours worked by
23 each employee and/or furnished with all applicable hourly rates in effect during the pay period and the
24 corresponding number of hours worked at each hourly rate by the employee, in violation of Section
25 226(a) of the Labor Code.

26 14. Plaintiffs are informed and believe that each Class consists of at least 500 employees and
27 such numerosity makes joinder of each member of each class impractical.

28 15. There is a well-defined community of interest in the questions of law and fact affecting the

1 Classes Plaintiffs seeks to represent. The Class members claims against Defendant involve questions
2 of general or common interest, in that the claims are based on the Defendant's implementation and
3 utilization of a policy pursuant to which all members of Class "A" were denied overtime during the
4 years in question, as required by California Labor Code, Section 510, and Wage Order No. 4-2001, all
5 members of Class "B" were not provided lunch breaks and/or rest periods as required by California
6 Labor Code, Sections 226.7 and 512, and Wage Order 4-2001, Sections 11 and 12, and all members of
7 Class "C" were not furnished with itemized employee wage statements as required by Labor Code,
8 Section 226(a). These questions are such that proof of the stated facts common to the members of each
9 Class will enable each member of the Class to the relief requested in this First Amended Complaint.

10 16. Plaintiffs will fairly and accurately represent the interests of the Class, have consented in
11 writing to bringing this lawsuit, and the claims of Plaintiffs are typical of those in each Class.

12 17. This type of case is uniquely well situated for Class or collective treatment since (1) the
13 employer's practices were uniform; (2) the burden is on the employer to prove any exemption; (3) the
14 burden is on the employer to disprove the hours of overtime claimed by the employees; (4) the burden
15 is on the employer to prove it provided the required meal break and rest period, and (5) the burden is
16 on the employer to prove it furnished the required itemized employee wage statement.

17 18. This action is brought, and may properly be maintained, as a class action under Code of
18 Civil Procedure, Section 382, because there is a well defined community of interest in the litigation and
19 each proposed Class is easily ascertainable. This action satisfies the predominance, typicality,
20 numerosity, superiority and adequacy requirements for class actions.

21 **FIRST CAUSE OF ACTION**

22 **(By Plaintiffs, individually, and on behalf of all**
23 **Members of Class "A", Against All Defendants)**

24 **Overtime Pay**

25 **(Labor Code Section 510 and Wage Order No. 4-2001)**

26 19. Plaintiffs refer to paragraphs 1 through 18 herein above and by reference thereto
27 incorporate the same herein.

28 20. Defendant has violated provisions of the Labor Code by failing to pay to Plaintiffs and

1 other employee Class "A" members similarly situated, overtime pay as required by Labor Code, Section
2 510, and Wage Order No. 4-2001, Section 3.

3 21. Labor Code, Section 510(a) states that: "Eight hours of labor constitutes a day's work. Any
4 work in excess of eight hours in one work day and any work in excess of forty hours in one work week
5 and the first eight hours worked on the seventh day of work in any one work week shall be compensated
6 at the rate of no less than 1-1/2 times the regular rate of pay for an employee. Any work in excess of
7 twelve hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for
8 an employee. In addition, any work in excess of eight hours on any seventh day of a work week shall
9 be compensated at the rate of no less than twice the regular rate of pay of an employee."

10 22. Wage Order No. 4-2001, Section 3, states:

11 "3. Hours and Days of Work.

12 1.(A) Daily Overtime - General Provisions

13 (1) The following overtime provisions are applicable to employees 18 years of age
14 or over and to employees 16 or 17 years of age who are not required by law to
15 attend school and are not otherwise prohibited by law from engaging in the subject
16 work. Such employees shall not be employed more than eight (8) hours in any
17 workday or more than 40 hours in any workweek unless the employee receives one
18 and one-half (1½) times such employee's regular rate of pay for all hours worked
19 over 40 hours in the workweek. Employment beyond eight (8) hours in any
20 workday or more than six (6) days in any workweek is permissible provided the
21 employee is compensated for such overtime at not less than:

22 (a) One and one-half (1½) times the employee's regular rate of pay for all
23 hours worked in excess of eight (8) hours up to and including 12 hours in
24 any workday, and for the first eight (8) hours worked on the seventh (7th)
25 consecutive day of work in a workweek; and

26 (b) Double the employee's regular rate of pay for all hours worked in excess
27 of 12 hours in any workday and for all hours worked in excess of eight (8)
28 hours on the seventh (7th) consecutive day of work in a workweek.

1 (c) The overtime rate of compensation to be paid to a nonexempt full-time
2 salaried employee shall be computed by using one-fortieth (1/40) of the
3 employee's weekly salary as the employee's regular hourly rate of pay.

4 23. Plaintiffs are informed and believe and thereon allege that Plaintiffs, and each member of
5 Class "A", were not employed in an executive, administrative or professional capacity, nor were they
6 exempt from overtime pay by reason of any other exemption under California law.

7 24. Defendant improperly classified Plaintiffs, and members of Class "A", as "exempt".
8 Consequently, Plaintiffs, and other members of Class "A", were not paid overtime wages for hours
9 worked in excess of eight hours per day and/or forty hours per week.

10 25. Industrial Welfare Commission, Wage Order No. 4, and California Labor Code, Section
11 515.5, each set forth the requirements which must be satisfied in order for an employee in the computer
12 software field could be exempt. Though classified as exempt, Plaintiffs, and members of Plaintiffs'
13 Class "A", are not exempt, in that said employees hourly rate of pay, or the annualized full time salary
14 equivalent of that after January 1, 2006, does not exceed the minimum applicable hourly rate as set forth
15 in Wage Order No. 4 and California Labor Code, Section 515.5 for each hour worked, and/or prior to
16 January 1, 2006, s and members of Class "A" were not paid on an hourly basis.

17 26. Plaintiffs, and each member of Class "A", regularly worked more than eight hours a day
18 and/or forty hours a week, without being paid any overtime pay as required by Section 510 of the Labor
19 Code and Wage Order No. 4-2001, Section 3.

20 27. By the conduct described above, Defendant, and each of them, have failed to pay Plaintiffs
21 and members of Class "A", overtime compensation as required by California law. Labor Code, Section
22 1194(a) states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less
23 than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled
24 to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
25 compensation, including interest thereon, reasonable attorney's fees and costs of suit."

26 28. By reason of the above, Plaintiffs and members of Class "A", demand additional
27 compensation for all current and former employees employed by Defendant within the State of
28 California, who performed the job functions of a systems analyst, programmer analyst, production

1 support, technical support, audit coordinator, and operations analyst, no matter what their job title,
2 including, but not limited to, consultant specialist, systems analyst, senior programmer analyst,
3 programmer analyst, technical support, production support, and operations analyst, for all hours worked
4 overtime within three years of the filing of the original complaint until the date of entry of judgment,
5 plus interest thereon, plus statutory penalties pursuant to Labor Code, Section 558, plus reasonable
6 attorney's fees and costs of suit.

7 **SECOND CAUSE OF ACTION**

8 **(By Plaintiffs, individually, and on behalf of all members**
9 **of Class "B", Against All Defendants)**

10 **Failure to Provide Meal and Rest Periods**

11 **(Violation of Labor Code, Sections 226.7 and 512, and**
12 **Wage Order No. 4-2001, Sections 11 and 12)**

13 29. Plaintiffs refer to paragraphs 1 through 18 herein above and by reference thereto incorporate
14 the same herein.

15 30. Section 226.7 of the Labor Code provides that no employer shall require any employee to
16 work during any meal period or rest period mandated by an applicable order of the Industrial Welfare
17 Commission. That sections goes on to provide that, if an employer fails to provide an employee a meal
18 period or rest period in accordance to the applicable Wage Order, the employer shall pay the employee
19 1 additional hour of pay at the employee's regular rate of compensation for each work day that the meal
20 period or rest period is not provided. The applicable Wage Order in this case is Wage Order No. 4-2001,
21 Sections 11 and 12, which requires that an employee have a thirty minute lunch break after five hours
22 of work, and that employees have a ten minute rest period for each four hours worked.

23 31. Plaintiffs are informed and believe and thereon allege that Plaintiffs, and each member of
24 Class "B", were not employed in an executive, administrative or professional capacity, nor were they
25 exempt from the requirement to provide meal breaks and rest periods by reason of any other exemption
26 under California law.

27 32. Defendant improperly classified Plaintiffs, and members of Class "B", as "exempt".
28 Consequently, Plaintiffs, and other members of Class "B" were not provided meal breaks and rest

1 periods as required by California law.

2 33. Industrial Welfare Commission, Wage Order No. 4, and California Labor Code, Section
3 515.5, each set forth the requirements which must be satisfied in order for an employee in the computer
4 software field to be exempt. Though classified as exempt, Plaintiffs, and members of Class "B", were
5 not exempt, in that said employees hourly rate of pay, or the annualized full time salary equivalent of
6 that after January 1, 2006, does not exceed the minimum applicable hourly rate as set forth in Wage
7 Order No. 4 and California Labor Code, Section 515.5 for each hour worked, and/or prior to January 1,
8 2006, Plaintiffs and members of Class "B" were not paid on an hourly basis.

9 34. Plaintiffs and each member of Class "B" regularly worked more than eight hours each day
10 and did not receive a meal period of thirty minutes for each five hours worked, nor did they receive a
11 ten minute rest period for each four hours worked.

12 35. By failing to provide a rest period without any work or duties for Plaintiffs and members
13 of Class "B" employed by Defendant for each four hours that such employee worked per day, Defendant
14 has violated the provisions of Labor Code, Section 226.7, and Wage Order No. 4-2001, Section 12.

15 36. In addition, Plaintiffs and members of Class "B" were not authorized to take a thirty
16 minute meal break after working five hours in the same day, nor were they authorized to take a second
17 thirty minute break after working over ten hours in the same day, in violation of Section 226.7 of the
18 Labor Code and Wage Order No. 4-2001, Section 11.

19 37. Plaintiffs, and members of Class "B" were never required to clock in or out for any and all
20 breaks that were taken, if any were received. Furthermore, there was never any agreement, whether
21 formal or informal, whereby Plaintiffs and members of Class "B" acquiesced to waiving any of their meal
22 breaks or rest periods.

23 38. Labor Code, Section 512 prohibits an employer from employing an employee for a work
24 period of more than five hours per day without providing the employee with a meal period of less than
25 thirty minutes or for a work period of more than ten hours per day without providing the employee with
26 a second meal period of not less than thirty minutes. Defendant failed to provide Plaintiffs and the Class
27 "B" members with meal periods and rest periods as required by law, and failed to authorize and permit
28 Plaintiffs and the Class "B" members to take rest periods as required by law. Plaintiffs and the Class

1 "B" members are therefore entitled to payment of additional wages as provided by law.

2 39. Therefore, Plaintiffs pray for damages, but not as a civil penalty, which would otherwise
3 be paid to the State of California, in the amount of one additional hour of pay at the employee's regular
4 rate of compensation for each work day that the meal or rest period was not provided.

5 **THIRD CAUSE OF ACTION**

6 (By Plaintiffs, individually, and on behalf of all
7 Members of Class "A" and Class "B", Against All Defendants)

8 **Waiting Penalties**

9 (Labor Code, Sections 201 - 203)

10 40. Plaintiffs refer to paragraphs 1 through 39 herein above and by reference thereto
11 incorporate the same herein.

12 41. During the relevant time period, Plaintiffs and many members of Class "A" and Class "B"
13 were terminated by, or resigned from, their positions with Defendant. Defendant, however, did not pay
14 Plaintiffs and/or members of Class "A" their overtime wages, nor did they pay Plaintiffs or members of
15 Class "B" the compensation owed to them for failing to provide meal breaks or rest periods as required
16 by law, which said monies were due upon their termination, or within seventy-two hours of their
17 resignation. Such non-payment was the direct and proximate refusal to do so by Defendant.

18 42. Under Labor Code, Sections 201, 202 and 203, Plaintiffs and those members of Class "A"
19 and Class "B" who no longer work for Defendant, were also entitled to waiting time penalties for not
20 having been paid overtime compensation, as well as compensation for failure to provide lunch breaks
21 and rest periods upon their separation from employment.

22 43. Plaintiffs and all members of Class "A" and Class "B" who terminated employment without
23 being paid the proper payments are entitled to thirty days full pay as waiting penalties.

24 44. Therefore, Plaintiffs and all members of Class "A" and Class "B" demand payment of
25 waiting penalties for Plaintiffs and class members who terminated employment without being paid the
26 proper payments.

27 **FOURTH CAUSE OF ACTION**

28 (By Plaintiffs, individually, and on behalf of all members of

Class "C" Against All Defendants)
(Failure to Comply with Itemized Employee's Wage Statement)
[Labor Code, Section 226(a)]

45. Plaintiffs refer to paragraphs 1 through 18 herein above and by reference thereto incorporate the same herein.

46. Section 226(a) of the Labor Code provides in pertinent part that every employer shall, semi-monthly 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 accurate itemized statement in writing showing . . . (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and was exempt from payment of overtime under subd. (a) of Section 515 or any applicable Order of the Industrial Welfare Commission, and . . . (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

47. Plaintiffs are informed and believe and thereon allege that Defendant violated Labor Code, Section 226(a) in that:

a. Plaintiffs and members of Class "C" were not exempt from payment of overtime under subd. (a) of Section 515 or any applicable Order of the Industrial Welfare Commission and were not furnished by Defendant, either as a detachable part of the check, draft, or voucher paying their wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing the total hours worked by each of its employees; and/or

b. Said employees were not furnished an accurate itemized statement in writing showing all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employees.

48. By reason of the above, Plaintiffs pray for damages, pursuant to Labor Code, Section 226(e), but not as a civil penalty which would otherwise be paid to the State of California, the greater of all actual damages or fifty dollars (\$50) for each employee for the pay period in which the initial violation occurred, and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, up to a maximum of \$4,000 per employee.

1 **FIFTH CAUSE OF ACTION**

2 **(By Plaintiffs, individually, and on behalf of all members of**

3 **Class "A", "B", and "C" Against All Defendants)**

4 **(Unfair Competition)**

5 **(Business & Professions Code, Section 17200, et seq.)**

6 49. Plaintiffs refers to paragraphs 1 through 39 and 45 through 48 herein above and by
7 reference thereto incorporates the same herein.

8 50. California Business & Professions Code, Section 17200, entitled definition, provides:

9 "As used in this Chapter, unfair competition shall mean and include any
10 unlawful, unfair or fraudulent business act or practice and unfair, deceptive,
11 untrue or misleading advertising and any act prohibited by Chapter 1
12 (commencing with Section 17500) of Part 3 of Division 7 of the Business and
13 Professions Code."

14 51. Defendant's conduct described herein above constitutes an unfair and unlawful business
15 practice in violation of provisions of California Business and Professions Code, Section 17200.

16 52. Defendant has violated provisions of the Labor Code by:

17 a. Failing to pay to Plaintiffs and members of Class "A", overtime pay as required by
18 Labor Code, Section 510 and Wage Order 4-2001, Section 3.

19 b. Failing to provide to Plaintiffs and members of Class "B" meal breaks and rest
20 periods as required by Labor Code, Section 226.7 and Wage Order No. 4-2001, Sections 11 and 12;

21 c. Failing to furnish Plaintiffs and members of Class "C" with an itemized employee
22 wage statement as required by Labor Code, Section 226(a)(2) and (9).

23 53. Plaintiffs demand that Defendant make full restitution for overtime compensation owed to
24 all Plaintiffs and members of Class "A", and each of them, within four years of the filing of the original
25 complaint until the date of entry of judgment.

26 54. Plaintiffs demand that Defendant make full restitution for compensation owed to Plaintiffs,
27 and members of Class "B", and each of them, for compensation for failure to provide meal breaks and
28 rest periods in accordance with California law, within four years of the filing of the original complaint

1 until the date of entry of judgment.

2 55. Plaintiffs demand that Defendant make full restitution for all damages owed to Plaintiffs
3 and members of Class "C", and each of them, for failure to furnish each such Plaintiff and member of
4 Class "C" an itemized employee wage statement as required by Labor Code, Section 226(a)(2) and (9)
5 in the sum of \$50 per employee for the initial pay period in which a violation occurred and \$100 per
6 employee for each violation in a subsequent pay period, not exceeding an aggregate amount of \$4,000
7 per employee.

8 56. Plaintiffs seek reasonable attorney's fees and costs pursuant to Code of Civil Procedure,
9 Section 1021.5.

10 WHEREFORE, Plaintiffs, on behalf of themselves, and on behalf of all class members similarly
11 situated, request judgment against Defendants, and each of them, as follows:

12 1. On the First Cause of Action for Unpaid Overtime:

- 13 a. Damages according to proof for overtime compensation under California law for
14 all hours worked overtime within three years of the filing of the original complaint
15 until the date of entry of judgment;
- 16 b. For all statutory damages according to proof;
- 17 c. For interest at the maximum legal rate on all amounts found due from the date of
18 the undue overtime until paid in full;
- 19 d. For reasonable attorney's fees according to proof.

20 2. On the Second Cause of Action for failing to provide meal and rest periods:

- 21 a. Damages according to proof for one additional hour of pay at each employee's
22 regular rate of compensation for each work day that a meal or rest period was not
23 provided for each such employee entitled to same;
- 24 b. For all statutory damages according to proof;
- 25 c. For interest at the maximum legal rate on all amounts found due from the date of
26 the missed meal or rest period until paid in full;
- 27 d. For reasonable attorney's fees according to proof.

28 3. On the Third Cause of Action for waiting penalties of thirty days of pay as a penalty for not

1 paying all wages due at time of termination for Plaintiffs and members of Class "A" and
2 Class "B" who terminated employment within three years of the filing of the original
3 complaint until the date of entry of judgment as provided for by Labor Code, Sections 201 -
4 203 and for reasonable attorney's fees.

- 5 4. On the Fourth Cause of Action for failing to furnish an itemized employee wage statement:
- 6 a. The sum of fifty dollars (\$50) per employee for the initial pay period in which the
7 violation occurred and the sum of one hundred (\$100) per employee for each
8 violation in a subsequent pay period not exceeding an aggregate amount of \$4,000
9 per employee;
 - 10 b. For statutory damages according to proof;
 - 11 c. For interest at the maximum legal rate for all amounts found due;
 - 12 d. For reasonable attorney's fees according to proof.
- 13 5. On the Fifth Cause of Action for Violation of Business & Professions Code, Section 17200:
- 14 a. For an order of the Court restoring to Plaintiffs and members of Class "A", Class
15 "B", and Class "C", all overtime compensation due each such employee, all
16 compensation due each such employee for failing to provide meal and rest periods
17 as required by law, and all amounts owed to each employee for failing to furnish an
18 accurate itemized employee wage statement, within four years of the filing of the
19 original complaint in this matter until the date of entry of judgment.
 - 20 b. For reasonable attorney's fees pursuant to Code of Civil Procedure, Section 1021.5.
- 21 6. For costs of suit incurred herein; and
- 22 7. For such other relief as the court deems just and proper.

23 Dated: February 15, 2007

THIERMAN LAW FIRM
UNITED EMPLOYEES LAW GROUP, P.C.
ERIC M. EPSTEIN, A Professional Corporation

24
25
26 By: 
Eric M. Epstein, Esq.
Attorneys for Plaintiffs
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