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OF ORIGINAL FILED**
Los Angeles Superior Court

OCT 09 2009

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10 Attorneys for Plaintiff, ABRAHAM MENJIVAR, on behalf of himself and all others similarly
11 situated

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

BC 423474

14 ABRAHAM MENJIVAR, on behalf of himself
15 and all others similarly situated,

Case No.

ASSIGNED FOR ALL PURPOSES TO:

17 Plaintiff

CLASS ACTION COMPLAINT FOR

19 vs.

1. Failure to Pay Overtime Wages
2. Failure to Provide Meal periods
3. Failure to Provide Rest Periods
4. Labor Code § 203 Penalties
5. Failure to Provide Itemized Statements
6. Unfair Business Practices (B&P § 17200)

20 VERIZON COMMUNICATIONS, INC., a
21 Delaware corporation and DOES 1 through 100,
22 inclusive,

23 Defendants.

DEMAND FOR JURY TRIAL

1
2 Plaintiff ABRAHAM MENJIVAR ("Plaintiff") alleges, on behalf of himself and classes
3 of those similarly situated, as follows:

4
5 **I.**

6 **INTRODUCTION**

7 1. This is an action by and on behalf of current and former employees of VERIZON
8 COMMUNICATIONS, INC., a Delaware Corporation (hereinafter "Defendant(s)" or
9 "VERIZON"), who are or were employed in Defendants' locations in California in positions
10 misclassified as Computer Technical Workers or Information Technology Support workers and
11 held positions under inaccurate titles lacking the exercise of discretion and independent judgment
12 in the performance of their primary duties, and in performing such duties should have been
13 classified as non-exempt pursuant to Wage Order 4 and, therefore, paid overtime. Plaintiff and
14 the class he seeks to represent were given titles that were inconsistent and unrealistic with the
15 "job requirements and expectations" as defined by VERIZON. The true nature and character of
16 said positions were intended to meet only the production needs of Defendants IT infrastructure
17 and were not implemented to meet the administrative policies of Defendants. As such, Plaintiff,
18 and the class he seeks to represent, was misclassified and is owed overtime and other remedies
19 under California law (hereinafter, "**THE CLASS**").

20 2. Such job categories, titles, and positions were not realistic and the expectations
21 were inconsistent with the duties actually performed. As such, VERIZON did not satisfy the
22 legally required minimum to unilaterally designate this class of employees as exempt from
23 overtime. These job titles were, are, and continue to be a misnomer, because the majority of the
24 work performed by this class of employees is not, and was not, exempt in nature. Furthermore,
25 the titles themselves do not reflect the true nature of the duties performed by these employees.
26 These employees thus are and were entitled to overtime and other protections as non-exempt
27 employees. It is *Defendants' burden* of pleading, evidence and proof to show that these
28 employees are and were exempt under California wage and hour law. These employees have
spent an insignificant amount of work time doing anything that constitutes "exempt," and for that

1 reason and others, they are and always have been entitled to overtime pay and non-exempt
2 treatment under California wage and hour law.

3 3. Plaintiff's duties and those of **THE CLASS** he seeks to represent were routine in
4 nature and relied on the use of templates and other automated processes. Although, the job titles
5 suggest the performance of high level job duties for the positions described herein, the actual job
6 duties are limited to performing routing production work, not requiring special expertise, and
7 involving little or no exercise of discretion.

8 **II.**

9 **JURISDICTION AND VENUE**

10 **Plaintiff**

11 4. Plaintiff ABRAHAM MENJIVAR is a California resident.

12 **Defendants**

13 5. The Superior Court of the State of California for the County of Los Angeles has
14 jurisdiction over VERIZON COMMUNICATIONS, INC., a Delaware Corporation, because it
15 has qualified with the California Secretary of State to do business and is doing business in,
16 California, and in LOS ANGELES COUNTY.

17
18 6. Venue as to each defendant is proper in this judicial district, pursuant to
19 California Code of Civil Procedure section 395.

20
21 7. The true names and capacities, whether individual, corporate, associate, or
22 otherwise, of defendants sued herein as DOES 1 to 100, inclusive, are currently unknown to
23 Plaintiff, who therefore sue Defendants by such fictitious names under California Code of Civil
24 Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the
25 defendants designated herein as a DOE is legally responsible in some manner for the unlawful
26 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the
27
28

1 true names and capacities of the defendants designated hereinafter as DOES when such identities
2 become known.

3
4 8. Plaintiff is informed and believes, and based thereon alleges, that each defendant
5 acted in all respects pertinent to this action as the agent of the other defendants, carried out a
6 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
7 defendant are legally attributable to the other defendants. Furthermore, Defendants in all respects
8 acted as the employer and/or joint employer of Plaintiff and **THE CLASS**. Plaintiff is informed
9 and believes and thereon alleges that at all times relevant to this action, the named defendant and
10 defendants DOES 1 through 100 were affiliated and were an integrated enterprise.

11
12 9. Plaintiff is informed and believes and thereon alleges that at all relevant times
13 each defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
14 the other Class Members, and exercised control over the wages, hours, and working conditions
15 of Plaintiff and the other Class Members. Plaintiff is informed and believes and thereon alleges
16 that, at all relevant times, each defendant was the principal, agent, partner, joint venturer, officer,
17 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
18 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
19 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
20 some or all of the other Defendants so as to be liable for their conduct with respect to the matters
21 alleged below. Plaintiff is informed and believes and thereon alleges that each defendant acted
22 pursuant to and within the scope of the relationships alleged above, that each defendant knew or
23 should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted
24 the conduct of all other Defendants; and that each defendant acted pursuant to a conspiracy and
25 agreement to do the things alleged herein.
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III.

SUMMARY OF CLAIMS

10. Plaintiff is a former VERIZON employee whose primary duties were non-exempt and who was misclassified by VERIZON as exempt from the overtime provisions of the applicable state wage and hour laws of California, as described in this complaint.

11. Plaintiff ABRAHAM MENJIVAR brings this action on behalf of all persons who were, are, or will be employed by VERIZON in California as defined in the complaint at any time within the four years prior to the date of the filing of this Complaint through the date of the final disposition of this action (the "California Class Period"), and who were, are, or continue to be improperly misclassified as exempt from overtime pay under California law.

IV.

CLASS ALLEGATIONS

12. Plaintiff brings this cause of action on behalf of himself and on behalf of **THE CLASS** of all persons similarly situated, as more fully explained below. This action is brought and may properly be maintained as a class action pursuant to the provisions of California Code of Civil Procedure section 382 and other applicable law pertaining to class actions.

13. The proposed Class Plaintiff seeks to represent, sometimes referred to herein as the "Class Members," is presently defined as follows: all employees of any of the Defendants who are, have been, or will be employed in any California location owned or operated by any of the Defendants in any job whose title is or was referred to by any of the Defendants as defined above or any similar derivative title that is better defined by a "skill set" that describes realistic descriptions and expectations of the duties performed by **THE CLASS** or sub-classes; and, that were so employed during the period of time covered by the statute of limitations applicable to the particular cause of action in which the terms "Class Members" or "Class" appear, including

1 periods of time during which the statute of limitations was or may have been tolled or suspended.

2 There is a well defined community of interest in the litigation and **THE CLASS** is ascertainable:

3
4 A. **Numerosity**: **THE CLASS** is so numerous that individual joinder of all
5 members is impractical under the circumstances of this case. While the exact number of Class
6 Members is unknown to Plaintiff at this time, Plaintiff is informed and believes and thereon
7 alleges that it is several thousand employees or more.

8 B. **Common Questions Predominate**: Common questions of law and fact
9 exist as to all Class Members, and predominate over any questions that affect only individual
10 members of **THE CLASS**. The common questions of law and fact include, but are not limited
11 to:

12 (A) What were and are the policies, programs, practices, procedures
13 and protocols of Defendants regarding Class Members' actual work and tasks, and
14 their job duties irrespective of job titles;

15 (B) Whether Defendants are and were subject to overtime requirements
16 contained in the California IWC Wage Orders and other California law with
17 respect to **THE CLASS** Members pursuant to Labor Code Section 510, and Wage
18 Order, No. 4-2001, for the period commencing four years prior to the date of the
19 filing of this complaint and continuing through the date of judgment;

20 (C) Whether Defendant's policy and practice of classifying Class
21 Members as exempt from overtime entitlement under California law and
22 Defendant's policy and practice of failing to pay overtime to the California Class
23 members violate applicable provisions of California law, including applicable
24 statutory and regulatory authority;

25 (D) Whether Defendant unlawfully failed to pay overtime
26 compensation in violation of the California Unfair Competition Law, Cal. Bus. t&
27 Prof. Code §17200 et seq., and the California Labor Code and related regulations,
28 Cal. Labor Code §§ 201, 202, 203, 226, 510, 1174, 1174.5, and 1194, the
applicable Cal. Wage Orders;

(E) Whether Defendants violated California law by their policies,
programs, practices, procedures and protocols regarding rest periods for Class
Members;

1 (F) Whether Defendants violated California law by their policies,
2 programs, practices, procedures and protocols regarding meal periods for Class
Members;

3 (G) What were and are the policies, programs, practices, procedures
4 and protocols of Defendants regarding furnishing to **THE CLASS** Members,
5 upon each payment of wages, itemized statements required by Labor Code section
226;

6 (H) Whether Defendants violated California law by their policies,
7 programs, practices, procedures and protocols regarding furnishing to **THE**
8 **CLASS** Members, upon each payment of wages, itemized statements required by
Labor Code section 226;

9 (I) Whether Defendants violated Business & Professions Code
10 sections 17200 *et seq.* by their policies, programs, practices, procedures and
conduct referred to in this cause of action;

11 (J) Whether Defendants obtained voluntarily waivers with consent
12 and full disclosure, and whether a written signed waiver is effective as to all
13 future meal and rest periods;

14 (K) The proper *measure of* damages sustained and the proper
15 measure of restitution recoverable by members of the California Class; and,

16 (L) Additional common questions of law and fact may develop as the
litigation progresses.

17 C. **Typicality:** Plaintiff's claims are typical of the claims of **THE CLASS**
18 Members. Plaintiff and other Class Members sustained losses, injuries and damages arising out
19 of the Defendants' common policies, programs, practices, procedures, and course of conduct
20 referred to in each cause of action and throughout this Complaint, which were applied uniformly
21 to Class Members as well as Plaintiff. Plaintiff seeks recoveries for the same types of losses,
22 injuries, and damages as were suffered by the other Class Members as well as Plaintiff.
23

24 D. **Adequacy:** Plaintiff and his counsel will fairly and adequately protect the
25 interests of **THE CLASS** Members. Plaintiff has no interest that is adverse to the interests of the
26 other Class Members.
27
28

1 E. **Superiority:** A class action is superior to other available means for the
2 fair and efficient adjudication of this controversy. Individual joinder of all Class Members is
3 impractical. Class action treatment will permit a large number of similarly situated persons to
4 prosecute their common claims in a single forum simultaneously, efficiently, and without the
5 unnecessary duplication of effort and expense that numerous individual actions engender. Also,
6 because the losses, injuries and damages suffered by each of the individual Class Members are
7 small in the sense pertinent to class action analysis, the expenses and burden of individual
8 litigation would make it extremely difficult or impossible for the individual Class Members to
9 redress the wrongs done to them. On the other hand, important public interests will be served by
10 addressing the matter as a class action. The cost to the court system and the public of
11 adjudication of individual litigation and claims would be substantial, and substantially more than
12 if the claims are treated as class action. Individual litigation and claims would also present the
13 potential for inconsistent or contradictory results.

14
15 F. **Public Policy Considerations:** Defendants and other employers
16 throughout the state violate wage and hour laws. Their current employees are often afraid to
17 assert their rights out of fear of direct or indirect retaliation. Their former employees are fearful
18 of bringing claims because doing so can harm their employment and future employment and
19 future efforts to secure employment. Class actions provide Class Members who are not named in
20 the complaint a degree of anonymity that allows for vindication of their rights while eliminating
21 these risks, or at least enormously reducing them.

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V.

CAUSES OF ACTION

First Cause of Action

Failure to Pay Wages at Overtime Rate

(Lab. Code §§ 510, 1194 and 1199, IWC Wage Orders, and Related Violations)

14. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

15. Throughout the period applicable to this cause of action, Plaintiff and **THE CLASS** Members worked in excess of forty (40) hours per week and in excess of excess of eight (8) hours per day.

16. Throughout the period applicable to this cause of action, Defendants did not pay Plaintiff or Class Members at the required overtime rates for the work described in the preceding paragraphs.

17. Pursuant to California Labor Code section 1194, Plaintiff and **THE CLASS** Members are entitled to recover unpaid overtime compensation, and other unpaid wages, plus interest, plus attorneys' fees and costs.

18. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein, the California Plaintiff and the California Class members have sustained damages, including loss of earnings for hours of overtime worked on behalf of Defendant in an amount to be established at trial, prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.

19. WHEREFORE, Plaintiff and **THE CLASS** Members he seeks to represent request relief as described herein and below.

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Second Cause of Action
Failure to Provide Meal Periods
(Lab. Code §§ 226.7 and 512)

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2
3 20. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set
4 forth herein.

5
6 21. Throughout the period applicable to this cause of action, California law, as set
7 forth in relevant part by the Industrial Welfare Commission Wage Orders at section (11),
8 provided as follows:

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

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

17 22. Similarly, Labor Code section 226.7 requires payment of one (1) hour of pay in
18 lieu of meal periods not provided by the employer. Throughout the period applicable to this
19 cause of action, Defendants failed to consistently allow and provide the meal periods required by
20 California law. Therefore, Plaintiff and **THE CLASS** Members are entitled to compensation as
21 stated above, plus interest, attorneys' fees, costs and other applicable relief.

22 23. Throughout the period applicable to this cause of action, Defendants required
23 Plaintiff and **THE CLASS** Members to work during meal periods mandated by the applicable
24 orders of the Industrial Welfare Commission. Therefore Plaintiff and **THE CLASS** Members
25 are entitled to be paid as stated in Labor Code section 226.7, plus interest, attorneys' fees, costs
26 and other applicable relief.

27 24. On information and belief, Plaintiff alleges that **THE CLASS** Members did not
28 voluntarily or willfully waive rest and/or meal periods and were regularly required to work
through rest and meal periods. Defendants failed to meet the requirements for lawful on-duty
rest and/or meal periods and/or instituted a course of conduct that created a working environment

1 in which non-exempt employees were incapable of taking rest and/or meal periods. As such,
2 non-exempt employees were intimidated or coerced into waiving rest and/or meal periods, and
3 any written waivers were obtained without full disclosure and are thus involuntarily and without
4 consent.

5 25. WHEREFORE, Plaintiff and **THE CLASS** he seeks to represent request relief as
6 described herein and below.

7
8 **Third Cause of Action**
9 *Failure to Provide Rest Periods*
10 (Lab. Code § 226.7)

11 26. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set
12 forth herein.

13 27. By their failure to provide rest periods for every four (4) hours or major fraction
14 thereof worked per workday by non-exempt employees, and failing to provide one (1) hour's pay
15 in lieu thereof, as alleged above and herein, Defendants willfully violated the provisions of Labor
16 Code sections 226.7 and IWC Wage Orders at section (12).

17 28. By failing to keep adequate time records required by sections 226 and 1174(d) of
18 the Labor Code and IWC Wage Order at section (7), Defendants have injured Plaintiff and Class
19 Members and made it difficult to calculate the unpaid rest and meal period compensation due
20 Plaintiff and members of the Plaintiff Class. On information and belief, Plaintiff alleges that
21 Defendants' failure to maintain accurate records was willful.

22 29. As a result of the unlawful acts of Defendants, Plaintiff and **THE CLASS** he
23 seeks to represent have been deprived of premium wages in amounts to be determined at trial,
24 and are entitled to an accounting and recovery of such amounts, plus interest and penalties
25 thereon, attorneys' fees, and costs, under Labor Code sections 201, 202, 203, 218.5, 226, 226.7,
26 1194 and 1199, and the applicable IWC Wage Orders.

1 30. WHEREFORE, Plaintiff and **THE CLASS** he seeks to represent request relief as
2 described herein and below.

3
4 **Fourth Cause of Action**
5 *Failure to Pay All Wages Upon Ending of Employment*
6 (Lab. Code §§ 201, 202, and 203)

7 31. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set
8 forth herein.

9 32. Plaintiff and many of the other Class Members quit or were discharged from their
10 employment within the statute of limitations period applicable to this cause of action. As of the
11 filing of the Complaint, Defendants failed to timely pay wages due, and Plaintiff and Class
12 Members are owed penalties pursuant to Labor Code sections 201, 202, 203.

13 33. Defendants failed to pay said employees, without abatement, all wages (as
14 defined by applicable California law) within the time required by applicable California law.
15 Among other things, these employees were never paid any of the overtime compensation referred
16 to in this Complaint, nor were they paid the other unpaid wages referred to in this Complaint.
17 Defendants' failure to pay said wages within the required time was willful within the meaning of
18 Labor Code section 203.

19 34. Therefore, each of these employees is entitled to one day's wages for each day he
20 or she was not timely paid all said wages due, up to a maximum of thirty days' wages for each
21 employee. Because none of said employees were ever paid the overtime wages to which they
22 were entitled, and were never paid other unpaid wages referred to in this Complaint, each of said
23 employees is entitled to thirty days' wages.

24 35. WHEREFORE, Plaintiff and **THE CLASS** he seeks to represent request relief as
25 described herein and below.

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1 **Fifth Cause of Action**

2 *Failure to Furnish Itemized Statements*
3 (Lab. Code §§ 226(b), 1174, 1175)

4 36. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set
5 forth herein.

6 37. Throughout the period applicable to this cause of action, Defendants intentionally
7 failed to furnish to Plaintiff and **THE CLASS** Members, upon each payment of wages, itemized
8 statements accurately showing, among other matters: total hours worked, the applicable hourly
9 rates in effect during the pay period, and the corresponding number of hours worked at each
10 hourly rate.

11 38. Plaintiff and **THE CLASS** Members were damaged by these failures because,
12 among other things, the failures led them to believe that they were not entitled to be paid
13 overtime, even though they were so entitled, and because the failures hindered them from
14 determining the amounts of overtime wages owed to them.

15 39. Plaintiff and **THE CLASS** Members are entitled to the amounts provided for in
16 Labor Code section 226(e), plus costs and attorneys' fees.

17 40. WHEREFORE, Plaintiff and **THE CLASS** he seeks to represent request relief as
18 described herein and below.

19 **Sixth Cause of Action**

20 *Violation of Unfair Competition Law*
21 (Bus. and Prof. Code § 17200 *et seq.*)

22 41. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set
23 forth herein.

24 42. Plaintiff brings this action on behalf of each and all members of the general
25 public, including **THE CLASS** Members and Plaintiff himself, pursuant to Business and
26 Professions Code sections 17200 *et seq.* Defendants' conduct alleged above constitutes unlawful
27 business acts and practices in violation of Business & Professions Code sections 17200 *et seq.*
28 Defendant engaged in unfair competition in violation of the UCL by violating, *inter alia*, each of

1 the following laws: each of these violations constitutes an independent and separate violation of
2 the UCL:

- 3 a. California applicable Wage Orders
- 4 b. California Labor Code § 1194;
- 5 c. California Labor Code §§ 201, 202, 203, 204, and 226;
- 6 d. California Labor Code § 1174; and
- 7 e. California Labor Code § 510, which provides in relevant part:

8 *(B) Any work in excess of eight hours in*
9 *one workday and any work in excess of 40 hours in*
10 *anyone workweek and the first eight hours worked*
11 *on the seventh day of work in any one workweek*
12 *shall be compensated at the rate of no less than one*
13 *and one-half times the regular rate of pay for an*
14 *employee, Any work in excess of 12 hours in one*
15 *day shall be compensated at the rate of no less than*
16 *twice the regular rate of pay for an employee, In*
17 *addition, any work in excess of eight hours on any*
18 *seventh day of a workweek shall be compensated at*
19 *the rate of no less than twice the regular rate of pay*
20 *of an employee.*

21 43. Defendant's course of conduct, acts, and practices in violation of the California
22 laws mentioned in the above paragraph constitute a separate and independent violation of the
23 UCL. Defendant's conduct described herein violates the policy or spirit of such laws or otherwise
24 significantly threatens or harms competition. The harm to California Plaintiff and the California
25 Class in being wrongfully denied lawfully earned wages outweighs the utility, if any, of
26 Defendant's policies or practices and, therefore, Defendant's actions described herein constitute
27 an unfair business practice or act within the meaning of the UCL.

28 44. The unlawful and unfair business practices and acts of Defendant, described
above, have injured the California Class members in that they were wrongfully denied the
payment of earned overtime wages.

45. The California Plaintiff, on behalf of himself and **THE CLASS**, seeks restitution
in the amount of the respective unpaid wages earned and due at a rate not less than one and one-

1 halftimes the regular rate of pay for work performed in excess of forty hours in a work week, or
2 eight hours in a day, and double the regular rate of pay for work performed in excess of twelve
3 hours per day and such other legal and equitable relief from SPARTA's unlawful and willful
4 conduct as the Court deems just and proper.

5 46. Pursuant to Business and Professions Code sections 17200 *et seq.*, for the statute
6 of limitations period covered by this cause of action Plaintiff and **THE CLASS** Members, are
7 entitled to restitution for at least the following: the unpaid overtime earnings and other unpaid
8 earnings withheld and retained by Defendants referred to above.

9
10 47. Plaintiff and **THE CLASS** Members and the general public are also entitled to
11 permanent injunctive and declaratory relief prohibiting Defendants from engaging in the
12 violations and other misconduct referred to above.

13 48. Defendants are also liable to pay attorneys' fees pursuant to California Code of
14 Civil Procedure section 1021.5 and other applicable law, and costs. The Plaintiff, on behalf of
15 himself and Class members, also seek recovery of attorneys' fees and costs of this action to be
16 paid by VERIZON, as provided by the UCL and California Labor Code §§ 218, 218.5, and 1194.

17
18 49. WHEREFORE, Plaintiff and **THE CLASS** he seeks to represent request relief as
19 described herein and below.

20
21 **VI.**

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff on behalf of himself and all members of **THE CLASS**, pray for
24 relief as follows:

- 25
26 1. That the Court determine that this action may be maintained as a class action;
27 2. That Plaintiff be appointed the representative of **THE CLASS**;

1 3. That the attorneys of record for Plaintiff whose names appear in this Complaint be
2 appointed Class counsel;

3 4. For unpaid wages at overtime rates for all overtime work and unpaid wages for all
4 work for which they were not paid;

5 5. For such general and special damages as may be appropriate;

6 6. For waiting time penalties and civil penalties for all Class Members no longer in
7 Defendants' employ at the time of Judgment;

8 7. For pre-judgment interest;

9 8. For the amounts provided for in Labor Code §§ 226(b), 226.7,

10 9. For restitution as described in the cause of action under Business & Professions
11 Code §§ 17200 *et seq.* above;

12 10. For permanent injunctive and declaratory relief described in the cause of action
13 under Business & Professions Code §§ 17200 *et seq.* above.

14 11. A declaratory judgment that the practices complained of herein are unlawful
15 under California state law;

16 12. Attorney's fees and costs of suit, including expert fees pursuant to Ca. Lab. Code
17 §§218.5, 1194, and Calif. Code Civ. Proc. §1021.5;

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1 **DATED:** October 7, 2009

JOSE GARAY, *APLC*

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3 **&**

4 **HAMNER LAW OFFICES, LP**

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7 By: Christopher J. Hammer, Esq., Co-Counsel for
8 Plaintiff, ABRAHAM MENJIVAR, on behalf of
9 himself and all others similarly situated

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