

DEC - 9 2016

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20 Individually and on Behalf of All Similarly Situated Individuals

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **FOR THE COUNTY OF LOS ANGELES**

23 KON J. KIM, Individually and on Behalf of
24 All Similarly Situated Individuals,

25 Plaintiffs,

26 vs.

27 THE KOREA TIMES OF LOS ANGELES,
28 INC., a California corporation; THE
KOREA TIMES OF SAN FRANCISCO,
INC., a California corporation and DOES 1
through 25, Inclusive,

Defendant.

CASE NO. **BC 643503**

[CLASS ACTION]

COMPLAINT FOR:

1. UNPAID WAGES (LABOR CODE § 1194)
2. FAILURE TO PAY MINIMUM WAGE (LABOR CODE § 1194)
3. FAILURE TO PAY OVERTIME COMPENSATION (LABOR CODE §§ 510 and 1194);
4. FAILURE TO PROVIDE MEAL AND REST PERIODS (LABOR CODE §§ 512 and 226.7);
5. FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS (LABOR CODE §226 *et seq.*);
6. WAITING TIME PENALTIES (LABOR CODE § 203);
7. FAILURE TO PAY ALL WAGES BY THE APPROPRIATE PAY PERIOD (LABOR CODE § 204); and
8. UNFAIR COMPETITION (LABOR CODE §§ 17200 *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff Kon J. Kim (“Plaintiff”), individually and on behalf of all similarly situated
2 individuals, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 1. This is a proposed class action brought against Defendants THE KOREA TIMES
5 OF LOS ANGELES, INC., and THE KOREA TIMES OF SAN FRANCISCO, INC., and DOES 1
6 through 25, inclusive (hereinafter “Defendant” or “KOREA TIMES”), on behalf of Plaintiff and
7 all other hourly and non-exempt current and former employees (hereinafter “Class Members”) of
8 THE KOREA TIMES located in California at any time during the four years preceding the filing
9 of this action, and continuing while this action is pending (“Class Period”), and were denied the
10 benefits and protections required under the California Labor Code and other statutes and
11 regulations applicable to California employees.

12 2. During the Class Period, THE KOREA TIMES, in conjunction with other
13 Defendant:

- 14 a. failed to pay wages for all hours worked by the Class Members;
15 b. failed to pay Class Members the legal minimum wage of \$8.00/hour;
16 c. failed to pay overtime wages due to Class Members;
17 d. failed to provide meal and rest periods due to the Class Members;
18 e. failed to provide the Class Members with timely and accurate wage and
19 hour statements;
20 f. failed to pay the Class Members compensation in a timely manner upon
21 their termination or resignation;
22 g. failed to maintain complete and accurate payroll records for the Class
23 Members;
24 h. wrongfully withheld wages and compensation due to the Class Members;
25 and
26 i. committed unfair business practices in an effort to increase profits and to
27 gain an unfair business advantage at the expense of the Class Members and
28 the public.

1 business in Los Angeles County, California. THE KOREA TIMES has engaged in numerous
2 unlawful employment practices addressed in this Complaint in Los Angeles County.

3 8. Plaintiff is informed and believes and based thereon alleges that KOREA TIMES
4 uniformly applies its pay and time keeping practices and overtime policies to all of KOREA
5 TIMES 's hourly, non-exempt employees ("Class Members"), and that they are all centrally
6 managed by and under the control of Defendants.

7 9. Plaintiff is currently unaware of the true names and capacities of the Defendant
8 sued in this action by the fictitious names DOES 1 through 25, inclusive, and therefore sue those
9 Defendant by such fictitious names. Plaintiff will amend this Complaint to allege the true names
10 and capacities of such fictitiously named Defendant when they are ascertained.

11 10. Plaintiff is informed and believes and based thereon alleges that each defendant
12 sued in this action, including each defendant sued by the fictitious names DOES 1 through 25,
13 inclusive, is responsible in some manner for the occurrences, controversies and damages alleged
14 below.

15 11. Plaintiff is informed and believes and based thereon alleges that DOES 1 through
16 25, inclusive were the agents, servants, and/or employees of Defendant and, in doing the things
17 hereinafter alleged and at all times, was acting within the scope of their authority as such agents,
18 servants and employees, and with the permission and consent of Defendant.

19 12. Plaintiff is informed and believes and based thereon alleges that Defendant ratified,
20 authorized, and consented to each and all of the acts and conduct of each other as alleged herein.

21 FACTS

22 13. During part of the four years preceding the filing of this action, Plaintiff Kon J.
23 Kim was employed by Defendant at KOREA TIMES as a non-exempt, hourly employee under the
24 Employment Laws and Regulations. She commenced her employment in or around 2004 at
25 KOREA TIMES before separating from her employment with KOREA TIMES in or around 2015.
26 Class Members, just like Ms. Kim, are non-exempt and hourly employees of Defendant.

27 14. KOREA TIMES does not pay the minimum wage and/or the overtime rate of pay
28 for all hours worked by Plaintiff and Class Members. During Plaintiff's employment with

1 KOREA TIMES, and continuing to date, Plaintiff and Class Members were regularly required to
2 work off-the-clock to meet the daily demands of their jobs. Defendant requires Class Members,
3 including Plaintiff, to work on unscheduled days for no compensation. For instance, if Plaintiff
4 worked on Sunday, an unscheduled day, she would not be paid for her time working on that day.
5 In addition, Class Members are not compensated for the time spent working because their
6 schedules have no end time. Class Members, including Plaintiff, are instructed to report to work
7 and work with no end in sight. Class Members, including Plaintiff, therefore work in excess of
8 eight hours, and are not paid overtime for doing so. In addition, Class Members' pay, including
9 Plaintiff, do not accurately capture the actual hours worked because of the fact that the schedules
10 have no end time, and because the KOREA TIMES does not accurately record or track the actual
11 hours worked. In fact, the earning statements provide the "time card detail" which collectively
12 and uniformly reveal in whole, 8 hours of work. Upon information and belief, Defendants'
13 officers and agents are able to adjust time entries on the timekeeping software in an effort to
14 deprive Plaintiff and Class Members of their earned overtime pay. Accordingly, Plaintiff and
15 Class Members are not fully compensated for all hours worked, including overtime compensation.
16 This wage abuse is in direct violation of the Employment Laws and Regulations.

17 15. Because KOREA TIMES did not pay the minimum wage and/or the overtime rate
18 for all hours worked, KOREA TIMES also failed to provide Plaintiff and Class Members with
19 accurate wage statements in violation of Labor Code Section 226, *et seq.*

20 16. During the time Plaintiff was employed, Defendants failed to provide Plaintiff and
21 Class Members with rest periods during work shifts over four hours. Defendant also routinely
22 failed to provide Plaintiffs and Class Members a 30-minute meal period in which they were
23 relieved of all duties when they worked over five hours and routinely failed to provide Plaintiffs
24 and Class Members a second such meal period when they worked more than ten hours. These
25 practices are in violation of the Employment Laws and Regulations. Indeed, the "time card"
26 detail shown on the wage statements show 8 hours of *straight* work with no stoppage in time for
27 statutory meal breaks. Rest breaks are not and were not provided to Plaintiff and Class Members
28 either. There simply is no mechanism or schedule in place at KOREA TIMES for Class

1 Members to take their statutory breaks. Furthermore, Defendant does not pay one additional hour
2 of pay at the regular rate of compensation for such missed meal and rest breaks.

3 17. During Plaintiff's employment with KOREA TIMES, Defendants failed to
4 provide Plaintiff and Class Members with timely and accurate wage and hour statements showing,
5 among other things, gross hours earned, total hours worked, all deductions made, net wages
6 earned, the inclusive dates of the period for which the employee is paid, accrued vacation, and all
7 applicable hourly rates in effect during each pay period.

8 18. Defendants' issued earning statements to Class Members, including Plaintiff, do
9 not accurately report the total hours worked for the stated pay period. For example, one of the
10 wage statement purports to capture the pay period beginning date of 2/16/2014 through the pay
11 period ending date of 2/28/2014. However, the section for the "time card detail" does not provide
12 the time punches for that pay period. In fact, it shows time punches from 2/10/2014 through
13 2/21/2014. Therefore, Class Members, including Plaintiff, are not paid for all of the days they
14 worked during the Class Period and is in direct violation of the Employment Laws and
15 Regulations.

16 19. During Plaintiff's employment with KOREA TIMES, Defendants wrongfully
17 withheld from Plaintiff and failed to pay their wages and other compensation which was due
18 them for all of their hours worked, for overtime work, for missed meal and rest periods, and as
19 otherwise required pursuant to the Employment Laws and Regulations.

20 20. Plaintiff seeks restitution and disgorgement of all sums wrongfully obtained by
21 Defendants through unfair business practices in violation of California's Business & Professions
22 Code sections 17200, *et seq.*, to prevent the Defendants from benefitting from their violations of
23 law and/or unfair acts. Such sums recovered under the Unfair Competition Act and Unfair
24 Businesses Act are equitable in nature and are not to be considered damages. Plaintiff is also
25 entitled to costs, attorney's fees, interest and penalties as provided for by statute.

26 21. To the extent that any Class Member, including Plaintiff, entered into any
27 arbitration agreement with any Defendant and such agreement purports to require arbitration, such
28 agreement is void and unenforceable. Any such agreement was one of adhesion, executed under

1 duress, lacked consideration and mutuality, and was otherwise void under both California Labor
2 Code section 229 and the California Supreme Court case of *Armendariz v. Foundation Health*
3 *Psychcare Services, Inc.* (2000) 24 Cal.4th 83.

4 **CLASS ACTION ALLEGATIONS**

5 22. Plaintiff brings these claims as a class action pursuant to Code of Civil Procedure §
6 382 and Business and Professions Code §§ 17203 & 17204. Plaintiff brings this action on her
7 own behalf and on behalf of the following class of individuals (the “Class” or “Class Members”):

8 All non-exempt, hourly Class Members employed by, or formerly employed by,
9 Defendant in the State of California at any time from four years prior to the date
of the filing of this complaint, and continuing while this action is pending.

10 23. All Class Members, including Plaintiffs, are putative class members.

11 24. During the Class Period, Defendant failed to pay Plaintiff and all Class Members
12 for all hours worked, in violation of the Employment Laws and Regulations.

13 25. During the Class Period, Defendant have failed to provide Class Members with
14 accurate wage and hour statements showing the gross hours earned, total hours worked, all
15 deductions made, net wages earned, the inclusive dates of the period for which the employee is
16 paid, the name and address of Defendant that is the employer, accrued vacation, and all applicable
17 hourly rates in effect during each pay period, as well as the corresponding number of hours
18 worked at each hourly rate.

19 26. During the Class Period, Plaintiffs and Class Members have been required to work
20 more than eight hours per day and more than forty hours per workweek. Defendant have failed to
21 compensate Class Members all of the wages they are due, including overtime premium pay.

22 27. During the Class Period, Defendant have failed to provide Plaintiffs and Class
23 Members with meal and rest periods, and have failed to provide meal and rest period premium
24 wages to compensate for missed meal and rest periods..

25 28. During the Class Period, Defendant have failed to pay wages and other
26 compensation due immediately to Class Members who were terminated, and Defendant have
27 failed to pay wages and other compensation due within seventy-two hours to Class Members who
28 voluntarily ended their employment.

1 29. The proposed class is ascertainable in that its members can be identified using
2 information contained in Defendants' payroll and personnel records.

3 30. Numerosity. The Class Members are so numerous, conservatively estimated to
4 include over 50 Class Members , that joinder of each individual Class Member would be
5 impracticable, and the disposition of their claims in a class action, rather than numerous
6 individual actions, will benefit the parties, the Court and the interests of justice.

7 31. Commonality. There is a well-defined community of interest in the questions of
8 law and fact involved in this action, because Defendant's failure to pay Class Members their
9 wages or afford them the protections required under the Employment Laws and Regulations
10 affects all Class Members. Common questions of law and fact predominate over questions that
11 affect only individual Class Members, because all Class Members were subject to uniform,
12 unlawful pay practices and policies. The predominate questions of law and fact include, but are
13 not limited to:

14 a. Did Defendant devise a scheme and plan to circumvent California wage
15 and hour laws?;

16 b. Was/is Defendant's conduct fraudulent and deceitful?;

17 c. Did/does Defendant's conduct violate the Employment Laws and
18 Regulations by, among other things,

19 (i) failing to compensate Plaintiff and the Class Members for all
20 hours worked;

21 (ii) failing to compensate Plaintiff and the Class Members at the
22 applicable and legally-mandated minimum hourly rate;

23 (iii) failing to provide Plaintiff and the Class Members with timely and
24 accurate wage and hour statements;

25 (iv) failing to maintain complete and accurate payroll records for
26 Plaintiffs and the Class Members; and

27 (v) failing to provide meal and rest periods to Plaintiffs and the Class
28 Members, or premium pay in lieu thereof?

1 d. Do/did Defendant's systematic acts and practices violate, *inter alia*,
2 California Business & Professions Code section 17200, *et seq.*?

3 32. Typicality. Plaintiff's claims are typical of those of the other Class Members
4 because all Class Members share the same or similar employment duties and activities, all are
5 automatically classified as non-exempt employees, and all have been denied the benefits and
6 protections of the Employment Laws and Regulations in the same manner. Since Defendant has
7 uniformly applied the same pay practices and policies to each Class Member, Plaintiff's claims
8 are typical of the claims of all Class Members. Plaintiff's claims are also typical because they
9 have suffered the same damages as those suffered by all Class Members.

10 33. Adequacy of Representation. Plaintiff can fairly and adequately represent and
11 protect the interests of all Class Members because Plaintiff has no disabling conflict of interest
12 which is antagonistic to those of all other Class Members. Plaintiff seeks no relief which is
13 antagonistic or adverse to the other Class Members, and the infringement of her rights and the
14 damages she has suffered is typical of all other Class Members. Plaintiff's counsel is competent
15 and experienced in litigating class actions in California based on large employers' violations of
16 the Employment Laws and Regulations.

17 34. As mentioned above, to the extent that any Class Member entered into any
18 arbitration agreement with any Defendant and such agreement purports to require arbitration, such
19 agreement is void and unenforceable. Even if such agreement is deemed enforceable, however,
20 classwide arbitration is appropriate and should be utilized to obtain classwide relief.

21 35. Superiority of Class Action. The nature of this action and the nature of laws
22 available to Plaintiffs and the other Class Members in the putative Class make use of the class
23 action a particularly efficient and effective procedure because:

24 a. For many of the Class Members, individual actions or other individual
25 remedies would be impracticable and litigating individual actions would be too costly;

26 b. The action involves a corporate employer (KOREA TIMES, Inc.) and a
27 large number of individual employees (Plaintiffs and the other Class Members), many with
28 relatively small claims and all with common issues of law and fact;

1 c. If employees are forced to bring individual lawsuits, the corporate
2 defendant would necessarily gain an unfair advantage by the ability to exploit and overwhelm the
3 limited resources of individual plaintiffs through superior financial and legal resources;

4 d. The costs of individual suits would likely consume the amounts recovered;

5 e. Requiring each employee to pursue an individual remedy would also
6 discourage the assertion of lawful claims by current employees of Defendant, who would be
7 disinclined to pursue an action against their present and/or former employer due to an appreciable
8 and justified fear of retaliation and permanent damage to their immediate and/or future
9 employment; and

10 f. The common business practices Plaintiff experienced are representative of
11 those experienced by all Class Members and can establish the right of all Class Members to
12 recover on the alleged claims.

13 **FIRST CAUSE OF ACTION**

14 **(Failure to Pay Compensation For All Hours Worked - Labor Code § 1194**

15 **By Plaintiff Individually and on Behalf of All Class Members)**

16 36. As a separate and distinct cause of action, Plaintiff complains and realleges all the
17 allegations contained in this complaint, and incorporates them by reference into this cause of
18 action as though fully set forth herein, excepting those allegations which are inconsistent with this
19 cause of action.

20 37. Plaintiff brings this action to recover their unpaid compensation for all hours
21 worked as defined by the applicable Industrial Welfare Commission wage order as the time during
22 which an employee is subject to the control of an employer, and includes all the time the
23 employee is engaged, suffered or permitted to work, whether or not required to do so.

24 38. Plaintiff is entitled to recover the unpaid balance of compensation Defendant owes
25 Plaintiff, plus interest, associated statutory penalties, and reasonable attorney fees and costs
26 pursuant to Labor Code section 1194.

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SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages - Labor Code § 1194

By Plaintiff Individually and on Behalf of All Class Members)

39. As a separate and distinct cause of action, Plaintiff complains and realleges all of the allegations contained in this complaint, and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

40. At all relevant times, the IWC Wage Orders applied to Plaintiff in Plaintiff's capacity as an employee of Defendant. The Wage Orders and California law provided, among other things, that Plaintiff must receive minimum wage earnings for all hours worked.

41. During the Class Period, Defendant has routinely failed to pay Class Members, including Plaintiff, the minimum wage required by the Employment Laws and Regulations for all hours worked.

42. Class Members, including Plaintiff, have been deprived of their rightfully earned minimum wages as a direct and proximate result of Defendant's policies and practices and Defendant's failure and refusal to pay said wages for all hours worked. Class Members, including Plaintiff, are entitled to recover the past wages owed to them, under the minimum wage laws, plus an additional equal amount as liquidated damages as permitted under the Wage Orders and California law, including Labor Code § 1194.2, plus interest thereon and attorneys' fees, and costs, pursuant to Labor Code § 1194, in an amount according to proof at the time of trial.

THIRD CAUSE OF ACTION

(Failure to Pay Overtime Compensation - California Labor Code §§ 510 and 1194

By Plaintiff Individually and on Behalf of All Class Members)

43. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint, and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

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1 44. During the Class Period, Defendant has routinely required Class Members,
2 including Plaintiff, to work over eight hours in a day and over forty hours in a workweek.
3 However, Defendant has failed and refused to pay the Class Members, including Plaintiff, the
4 overtime compensation required by the Employment Laws and Regulations.

5 45. The Class Members, including Plaintiff, have been deprived of their rightfully
6 earned overtime compensation as a direct and proximate result of Defendant's policies and
7 practices and Defendant's failure and refusal to pay that compensation. The Class Members,
8 including Plaintiff, are entitled to recover such amounts, plus interest, attorney's fees, and costs.

9 **FOURTH CAUSE OF ACTION**

10 **(Failure to Provide Meal and Rest Periods - California Labor Code §§ 226.7 and 512**

11 **By Plaintiff Individually and on Behalf of All Class Members)**

12 46. As a separate and distinct cause of action, Plaintiff complains and realleges all the
13 allegations contained in this complaint, and incorporates them by reference into this cause of
14 action as though fully set forth herein, excepting those allegations which are inconsistent with this
15 cause of action.

16 47. During the Class Period, Defendant has routinely failed to provide Class Members,
17 including Plaintiff, with meal and rest periods during their work shifts, and has failed to
18 compensate these Class Members, including Plaintiff, for those meal and rest periods, as required
19 by California Labor Code section 226.7 and the other applicable sections of the Employment
20 Laws and Regulations.

21 48. Class Members, including Plaintiff, have been deprived of their rightfully earned
22 compensation for meal and rest periods as a direct and proximate result of Defendant's policies
23 and practices and Defendant's failure and refusal to pay that compensation. Class Members,
24 including Plaintiff, are entitled to recover such amounts pursuant to California Labor Code section
25 226.7(b), plus interest, attorney's fees, and costs.

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1 **FIFTH CAUSE OF ACTION**

2 **(Failure to Accurate Furnish Wage and Hour Statements - California Labor Code § 226**
3 **By Plaintiff Individually and on Behalf of All Class Members)**

4 49. As a separate and distinct cause of action, Plaintiff complains and realleges all the
5 allegations contained in this complaint, and incorporates them by reference into this cause of
6 action as though fully set forth herein, excepting those allegations which are inconsistent with this
7 cause of action.

8 50. Under California Labor Code § 226, Defendant was required to provide wage
9 statements that accurately reflect all the information required under § 226. During the Class
10 Period, Defendant has routinely failed to provide Class Members, including Plaintiff, with timely
11 and accurate wage-and-hour statements containing all information required under Labor Code
12 section 226, including but not limited to gross hours earned, total hours worked, net wages earned,
13 and all applicable hours rates in effect during each pay period and the corresponding number of
14 hours worked at each hourly rate.

15 51. Plaintiff, and the Class Members, were harmed by, among other things, not being
16 alerted to the fact that Defendant was violating California's wage-and-hour laws or that they were
17 being underpaid and thereby suffered repeated violations of their rights; not having accurate
18 documentation to allow them to make precise calculations of their wages owed or to easily prove
19 their wage claims with certainty; being deprived of accurate wages statements despite having the
20 legal right to receive them; confusion over whether they received all wages owed them; the
21 difficulty and expense involved in reconstructing pay records, all of which contributed to,
22 furthered, and resulted in Defendant underpaying Plaintiff, and the Class Members. Plaintiff, and
23 the Class Members , furthermore suffered injury as defined under Labor Code § 226(e)(2)(b).

24 52. Defendant's conduct was a substantial factor in causing Plaintiff, and the Class
25 Members, harm.

26 53. Defendant is liable for actual damages caused subject to proof at trial, or statutory
27 damages under section 226(e), whichever is greater, plus interest thereon and attorney's fees and
28 costs under California Labor Code section 226(e), plus costs, and reasonable attorney's fees, as

1 well as all other available remedies.

2 **SIXTH CAUSE OF ACTION**

3 **(For Waiting Time Penalties - Labor Code §§ 201-203**

4 **By Plaintiff Individually and on Behalf of All Class Member)**

5 54. As a separate and distinct cause of action, Plaintiff complains and realleges all of
6 the allegations contained in this complaint, and incorporates them by reference into this cause of
7 action as though fully set forth herein, excepting those allegations which are inconsistent with this
8 cause of action.

9 55. During the Class Period, Defendant failed to pay accrued wages and other
10 compensation due immediately to each Proposed Class Member who was terminated, and failed to
11 pay accrued wages and other compensation due within seventy-two hours to each proposed Class
12 Member, including Plaintiff, who ended his or her employment.

13 56. Labor Code § 201 requires an employer who discharges an employee to pay
14 compensation due and owing to said employee immediately upon discharge. Labor Code § 203
15 provides that if an employer willfully fails to pay compensation promptly upon discharge, as
16 required by § 201, the employer is liable for waiting time penalties in the form of continued
17 compensation for up to 30 work days.

18 57. Defendants, and each of them, willfully failed and refused, and continue to
19 willfully fail and refuse, to timely pay compensation due to proposed Class Members upon
20 termination or resignation, as required by Labor Code § 201. As a result, Defendants, and each of
21 them, are liable to Plaintiff and all Proposed Class Members similarly situated for waiting time
22 penalties, together with interest thereon and attorneys' fees and costs, pursuant to California Labor
23 Code § 203, as well as all other available remedies, in an amount according to proof at the time of
24 trial.

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1 **SEVENTH CAUSE OF ACTION**

2 **(Failure to Pay All Wages By the Appropriate Pay Period - Labor Code § 204**

3 **By Plaintiff Individually and on Behalf of All Class Members)**

4 58. PLAINTIFF realleges and incorporates, by reference, as though fully set forth, the
5 allegations contained in paragraphs 1 to 57.

6 59. During the Class Period, Labor Code Section 204 applied to Defendants'
7 employment of Plaintiff and Class Members. At all relevant times, California Labor Code Section
8 204 provided that all wages earned by any employee, such as Plaintiff and Class Members, in any
9 employment between the first (1st) and fifteenth (15th) days, inclusive, of any calendar month,
10 other than those wages due upon termination of an employee, are due and payable between the
11 sixteenth (16th) and twenty-sixth (26th) day of the month during which the work was performed.
12 Furthermore, at all relevant times, California Labor Code Section 204 provided that all wages
13 earned by any employee, such as Plaintiff and any member of the Class Members, in any
14 employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other
15 than those wages due upon termination of an employee, are due and payable between the first (1st)
16 and tenth (10th) day of the following month.

17 60. During the Class Period, DEFENDANTS failed to pay PLAINTIFF and members
18 of the PLAINTIFF CLASS wages for all hours worked.

19 61. During the Class Period, DEFENDANTS failed to pay PLAINTIFF and members
20 of the PLAINTIFF CLASS for all wages earned, and, therefore, violating California Labor Code
21 Section 204. Accordingly, PLAINTIFF and members of the PLAINTIFF CLASS are entitled to
22 recover all damages, penalties, and other remedies available for violation of California Labor
23 Code Section 204.

24 **EIGHTH CAUSE OF ACTION**

25 **(For Unfair Competition - California Business & Professions Code § 17200 et seq.**

26 **By Plaintiff Individually and on Behalf of All Class Members)**

27 62. As a separate and distinct cause of action, Plaintiff complains and realleges all the
28 allegations contained in this complaint, and incorporates them by reference into this cause of

1 action as though fully set forth herein, excepting those allegations which are inconsistent with this
2 cause of action.

3 63. Defendant's violations of the Employment Laws and Regulations as alleged in this
4 Complaint, including but not limited to Defendant's:

5 a. Failure and refusal to pay Class Members, including Plaintiff, wages for all
6 hours worked;

7 b. Failure and refusal to pay Class Members, including Plaintiff, the legal
8 minimum wage;

9 c. Failure and refusal to pay Class Members, including Plaintiff, overtime
10 wages;

11 d. Failure and refusal to provide Class Members, including Plaintiff, with
12 meal and rest periods;

13 e. Failure and refusal to provide Class Members, including Plaintiff, with
14 timely and accurate wage and hour statements; and

15 f. Failure to maintain complete and accurate payroll records for Class
16 Members, including Plaintiff;

17 constitute unfair business practices in violation of the California Business & Professions Code
18 section 17200 *et seq.*

19 64. Defendant has avoided payment of wages, overtime wages and other benefits as
20 required by the California Labor Code, the California Code of Regulations, and applicable
21 Industrial Welfare Commission Wage Orders.

22 65. As a result of Defendant's unfair business practices, Defendant has reaped unfair
23 benefits and illegal profits at the expense of Class Members, including Plaintiff, and members of
24 the public. Defendant should be made to disgorge their ill-gotten gains and to restore them to
25 Class Members, including Plaintiff.

26 66. Defendant's unfair business practices entitle Plaintiff to an order that Defendant
27 accounts for, disgorges and restores to the Class Members, including Plaintiff, the wages and
28 other compensation unlawfully withheld from them.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff, individually and on behalf of all Class Members, prays that the
3 Court enter judgment in her favor and against Defendant as follows:

- 4 1. For an Order requiring and certifying this action as a class action for the First
5 through the Eighth Causes of Action;
- 6 2. For an Order appointing Plaintiff's counsel as Class Counsel;
- 7 3. For compensatory damages in an amount to be ascertained at trial;
- 8 4. For restitution in an amount to be ascertained at trial;
- 9 5. For penalties as required by the applicable Wage Order or otherwise by law;
- 10 6. For prejudgment interest at the legal rate pursuant to California Labor Code section
11 218.6 and other applicable sections;
- 12 7. For reasonable attorney's fees pursuant to California Labor Code §§ 1021.5, 1194;
- 13 8. For cost of suit incurred herein;
- 14 9. For disgorgement of profits garnered as a result of Defendant's unlawful failure to
15 pay overtime premium compensation and meal and rest period compensation; and
- 16 10. For such further relief as the Court may deem appropriate.

17 DATED: December 9, 2016

LAW OFFICES OF THOMAS W. FALVEY
JML LAW, APLC

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19
20 By: 

Michael H. Boyamian, Esq.

21 Attorneys for Plaintiff Kon J. Kim, Individually and
22 on Behalf of All Similarly Situated Individuals
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DEMAND FOR JURY TRIAL

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2 Plaintiff Kon J. Kim, individually and on behalf of all similarly situated individuals,
3 demands a jury trial of this matter.
4

5 DATED: December 9, 2016

LAW OFFICES OF THOMAS W. FALVEY
JML LAW, APLC

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7
8 By: 

9 Michael H. Boyamian
10 Attorneys for Plaintiff Kon J. Kim, Individually and
11 on Behalf of All Similarly Situated Individuals
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