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THE SUPERIOR COURT
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CASE NUMBER:

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11 * *pro hac vice* motion forthcoming

12 *Attorneys for Plaintiffs, Proposed*
13 *Class and Collective Members, and*
14 *Aggrieved Employees*

SUPERIOR COURT OF THE STATE OF CALIFORNIA**COUNTY OF ALAMEDA****UNLIMITED CIVIL JURISDICTION**

19 MICHELE MARKS and SHAMAR IRACE,
20 individually and on behalf of all others
21 similarly situated,

21 Plaintiffs,

22 v.

23 EVERLAW, INC.,

24 Defendant.

Case No.

**CLASS AND COLLECTIVE ACTION
AND PAGA COMPLAINT FOR
VIOLATIONS OF FAIR LABOR
STANDARDS ACT, CALIFORNIA
LABOR CODE, AND UNFAIR
COMPETITION LAW;**

CLAIMS FOR DAMAGES.

1 Plaintiffs Michele Marks and Shamar Irace (“Plaintiffs”), on behalf of themselves and all
2 others similarly situated, by and through their attorneys Outten & Golden LLP, complaining of the
3 conduct of Everlaw, Inc. (“Everlaw” or “Defendant”), upon personal knowledge as to themselves,
4 and upon information and belief as to other matters, allege as follows:

5 **PRELIMINARY STATEMENT**

6 1. This lawsuit seeks to recover unpaid overtime compensation and other damages for
7 Plaintiffs and similarly situated co-workers who have worked for Everlaw as inside salespeople,
8 in the job titles of Account Executive I and II, Senior Account Executive, and Sales Development
9 Representative I and II (collectively, “Sales Representatives”).

10 2. Everlaw is a software as a service (SaaS) e-discovery company located in Oakland,
11 California.

12 3. Everlaw sells an e-discovery platform to law firms, businesses, and government
13 clients. Everlaw employs Sales Representatives, such as Plaintiffs, to make sales to prospective
14 customers.

15 4. While employed by Everlaw, Plaintiffs and other Sales Representatives
16 consistently worked more than 8 hours per day and more than 40 hours per workweek without
17 receiving overtime compensation for all the hours they worked. Throughout the relevant period,
18 it was Everlaw’s policy to deprive Plaintiffs of their earned overtime wages in violation of the Fair
19 Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, the California Labor Code (“Cal. Lab.
20 Code”) and applicable Wage Orders and regulations, and the California Unfair Business Practices
21 Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (collectively, the “California Wage Laws”).

22 5. During the relevant period, it has been Everlaw’s policy to uniformly classify Sales
23 Representatives, including Plaintiffs, as exempt from federal and state overtime provisions and not
24 to pay Sales Representatives any overtime wages.

25 6. The primary duties of Sales Representatives are non-exempt. These primary duties
26 did not vary significantly from one Sales Representative to another.

27 7. The primary duties of Sales Representatives do not fall under any of the exemptions
28 under federal or state overtime laws.

8. Plaintiffs and Sales Representatives have worked overtime hours, as defined by applicable federal and state laws, and are entitled to premium compensation at the appropriate rate for all overtime hours worked.

9. Plaintiffs bring this action on behalf of themselves and all similarly situated current and former Sales Representatives of Everlaw pursuant to the FLSA.

10. Plaintiffs seek permission to give notice of this action pursuant to 29 U.S.C. § 216(b) to all persons who are presently or have at any time during the three years immediately preceding the filing of this action, worked for Everlaw as Sales Representatives.

11. Plaintiffs also bring this action to recover unpaid overtime compensation and other damages for themselves and similarly situated current and former employees who worked for Everlaw in California as a Cal. Code of Civ. Proc. § 382 class action under the California Wage Laws.

12. Plaintiff Marks also brings this action on behalf of herself and all similarly situated current and former Sales Representatives who worked for Defendants in California from September 12, 2018 through the date of final disposition of this action (“Aggrieved Employees”) to recover penalties pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code. §§ 2698, *et seq.*, for violations of the California Labor Code as set forth herein.

JURISDICTION & VENUE

13. This Court has jurisdiction over Plaintiffs' claims under the California Labor Code and California Unfair Business Practices Law and 29 U.S.C § 216(b).

14. The Court has personal jurisdiction over this matter because Everlaw maintains its headquarters in Oakland, California, conducts substantial business activity in this city and state, and engaged in the unlawful acts described herein in this city and state.

15. Venue is proper in this county under California Code of Civil Procedure § 395.5 because a substantial part of the events and omissions giving rise to the claims alleged herein occurred in this county.

16. Notice of the claims alleged herein was provided to the California Labor & Workforce Development Agency (“LWDA”) and Defendant on March 5, 2020. The LWDA has

1 not taken any action with regard to the claims, including providing notice of an intent to pursue
2 the claims.

3 **THE PARTIES**

4 ***Plaintiff Michele Marks***

5 17. Plaintiff Michele Marks is a resident of Oakland, California.

6 18. Plaintiff Marks was employed by Everlaw as an Account Executive from
7 approximately October 2018 through approximately April 2019.

8 19. At all times relevant to the Complaint, Plaintiff Marks was an “employee” within
9 the meaning of all applicable statutes.

10 20. Plaintiff Marks regularly worked more than 40 hours in a workweek and/or more
11 than eight hours in a day, but was not paid for all hours she worked over 40 in a week or eight in
12 a day.

13 21. A written consent form signed by Plaintiff Marks is attached hereto as **Exhibit A**.

14 ***Plaintiff Shamar Irace***

15 22. Plaintiff Shamar Irace is a resident of San Mateo, California.

16 23. Plaintiff Irace was employed by Everlaw as an Account Executive from
17 approximately March 2017 to approximately September 2017.

18 24. At all times relevant to the Complaint, Plaintiff Irace was an “employee” within the
19 meaning of all applicable statutes.

20 25. Plaintiff Irace regularly worked more than 40 hours in a workweek and/or more
21 than eight hours in a day, but was not paid for all hours she worked over 40 in a week or eight in
22 a day.

23 26. A written consent form signed by Plaintiff Irace is attached hereto as **Exhibit B**.

24 ***Defendant Everlaw, Inc.***

25 27. Upon information and belief, Everlaw is a corporation formed under the laws of the
26 State of Delaware with a principal place of business in Oakland, California.

27 28. Upon information and belief, Everlaw has maintained control, oversight, and
28 direction over its operations and employment practices.

1 29. At all times hereinafter mentioned, Everlaw was Plaintiffs’ “employer” within the
2 meaning of all applicable statutes.

3 30. At all relevant times, Everlaw maintained control, oversight, and direction over
4 Plaintiffs and other Sales Representatives, including timekeeping, payroll, and other employment
5 practices that applied to them.

6 31. Everlaw has applied the same employment policies, practices, and procedures to all
7 Sales Representatives, including policies, practices, and procedures with respect to payment of
8 overtime compensation.

9 32. Everlaw’s annual gross volume of business is not less than \$500,000 within the
10 meaning of 29 U.S.C. § 203(s)(A)(ii).

11 **FLSA COLLECTIVE ACTION CLAIMS**

12 33. Plaintiffs bring the First Cause of Action pursuant to the FLSA, 29 U.S.C. § 216(b),
13 on behalf of themselves and all similarly situated persons who work or have worked for Everlaw
14 as Sales Representatives since September 12, 2016 (“FLSA Collective”).

15 34. Upon information and belief, there are dozens of current and former Sales
16 Representatives who are similarly situated to Plaintiffs and were denied overtime compensation.

17 35. Plaintiffs are acting on behalf of Everlaw’s current and former Sales
18 Representatives’ interests as well as their own interests in bringing this action.

19 36. Everlaw unlawfully required Plaintiffs and all individuals employed as Sales
20 Representatives to work in excess of 40 hours per week without paying them overtime
21 compensation at a rate of at least one and one-half times their regular hourly rate for all overtime
22 hours worked. Upon information and belief, Everlaw applied the same unlawful policies and
23 practices to all Sales Representatives.

24 37. The FLSA Collective members are readily identifiable and can be located through
25 the use of the Everlaw’s records. The FLSA Collective should be notified of and allowed to opt-
26 in to this action pursuant to 29 U.S.C. § 216(b).

27 **CALIFORNIA CLASS ALLEGATIONS**

28 38. Plaintiffs bring the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth

Causes of Action on their own behalf and as a class action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of the following class of persons:

All Sales Representatives who are currently or have been employed by Everlaw in the State of California since September 12, 2015 through the entry of judgment in this case (hereinafter referred to as the “California Class” and the “California Class Period,” respectively).

39. Excluded from the California Class are Everlaw’s legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class period has had, a controlling interest in Everlaw; the Judge(s) to whom this case is assigned and any member of the Judge(s)’ immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the California Class.

40. The Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Causes of Action are properly maintainable as a class action under Cal. Code of Civ. Proc. § 382.

41. Numerosity. The California Class is so numerous that joinder of all members is impracticable. Plaintiffs are informed and believe, and on that basis allege, that during the class period Everlaw has employed over 40 persons who satisfy the definition of the California Class.

42. Ascertainability. The identity of California Class members is ascertainable through Everlaw’s records.

43. Community of Interest.

a. Typicality. Plaintiffs’ claims are typical of California Class members’ claims. Plaintiffs, like other California Class members, were subjected to Everlaw’s policies and practices that violated California law. Plaintiffs’ job duties and claims were and are typical of those of the California Class members.

b. Adequacy. Plaintiffs will fairly and adequately represent and protect the interests of the California Class members. Plaintiffs’ counsel are experienced in employment class actions and will fairly and adequately represent and protect the interests of the California Class members.

1 c. Predominance. Common questions of law and fact exist as to members of
2 the California Class that predominate over any individualized questions, including the following:

3 a. Whether Everlaw has unlawfully failed to pay the
4 California Class members all overtime compensation owed, in violation of the
5 California Labor Code and related regulations, Cal. Lab. Code §§ 226, 510, and
6 1194; Cal. Wage Order Nos. 4-2001 and 7-2001; and the California Unfair
7 Competition Law, Cal. Bus & Prof. Code §§ 17200, *et seq.*;

8 b. Whether Everlaw has unlawfully failed to keep and furnish
9 the California Class members with timely, accurate, and itemized records of hours
10 worked in violation of Cal. Lab. Code §§ 226;

11 c. Whether Everlaw has unlawfully failed to timely pay wages
12 due during employment and upon separation in violation of Cal. Lab. Code §§
13 201, 202, 203, and 204;

14 d. Whether Everlaw has unlawfully failed to timely pay wages
15 to the California Class members in violation of Cal. Lab. Code §§ 204, 210;

16 e. Whether Everlaw has unlawfully failed to furnish the
17 California Class members with proper meal and rest breaks, in violation of the
18 California Labor Code and related regulations, Cal. Lab. Code §§ 226.7, 512 and
19 applicable wage orders; and

20 f. The nature and extent of the California Class members'
21 injuries and the appropriate measure of their damages.

22 44. Superiority. Class treatment would benefit the courts and California Class
23 members. Certification of the class would provide substantial benefits to the courts and California
24 Class members. The damages suffered by individual California Class members are relatively small
25 compared to the significant expense and burden of individual prosecution of this litigation. In
26 addition, class certification will obviate the need for unduly duplicative litigation which might
27 result in inconsistent judgments about Everlaw's practices.
28

1 **COMMON FACTUAL ALLEGATIONS**

2 45. Plaintiffs and the members of the FLSA Collective and the California Class
3 (collectively, “Class Members”) have been victims of Everlaw’s common policy and plan that has
4 violated their rights under the FLSA and California Wage Laws by improperly classifying Sales
5 Representatives as overtime exempt, requiring them to work in excess of 40 hours per week and
6 in excess of 8 hours per day, and denying them overtime compensation. At all times relevant,
7 Everlaw’s unlawful policy and pattern or practice has been willful.

8 46. Sales Representatives’ primary duties were non-exempt duties, specifically,
9 identifying business opportunities, engaging with potential customers by phone, email, social
10 media, and web meetings, and making sales of Everlaw’s products.

11 47. Although Sales Representatives were eligible to earn commissions based on various
12 performance indicators, these commissions did not constitute the majority of their earnings.

13 48. Throughout their employment, Plaintiffs and Class Members consistently worked
14 more than 40 hours per week and 8 hours per day.

15 49. Everlaw was aware that Plaintiffs and the Class Members worked more than 40
16 hours per workweek and 8 hours per day, yet Everlaw failed to pay them any overtime
17 compensation.

18 50. Everlaw did not keep accurate records of hours worked by Plaintiffs. That is,
19 Plaintiffs’ hours were not accurately recorded on pay stubs, and Plaintiffs were never required to
20 clock in or out, or otherwise record their time.

21 51. All of the work performed by Plaintiffs and Class Members was assigned by
22 Everlaw and Everlaw was aware that Plaintiffs and Class Members regularly worked overtime
23 hours.

24 52. Everlaw failed to pay Plaintiffs and Collective Members time and one-half for all
25 hours worked over 40 in a workweek in violation of the FLSA.

26 53. Everlaw failed to pay Plaintiffs and California Class members overtime
27 compensation for all of their overtime hours worked, including for any of the overtime hours they
28 worked over 8 in a workday and over 40 in a workweek.

1 54. Everlaw failed to furnish Plaintiffs and the California Class members with an
2 accurate itemized statement showing, *inter alia*, wages, hours worked, and rates paid as required
3 by the California Wage Laws.

4 55. Everlaw failed to timely pay Plaintiffs and the California Class members all wages
5 earned and unpaid at the time of separation from employment.

6 56. Plaintiffs and all California Class members who ceased employment with Everlaw
7 are entitled to unpaid compensation, but to date have not received such compensation.

8 57. Everlaw failed to timely pay Plaintiffs and the California Class members all wages
9 due and payable twice during each calendar month, on days designated in advance by the employer
10 as regular pay days.

11 58. Everlaw failed to provide Plaintiffs and California Class members with at least a
12 half-hour meal break in which they were relieved of all duty, and, for shifts of more than ten-
13 hour shifts, a second half-hour meal break in which they were relieved of all duty, as required by
14 the California Wage Laws.

15 59. Everlaw failed to provide Plaintiffs and California Class members with at least
16 one ten-minute rest break, in which they were relieved of all duty, for every four hours of work
17 or major fraction thereof that they performed, as required by the California Wage Laws.

18 60. Everlaw failed to reimburse Plaintiffs and California Class members for their
19 home internet expenses used for business purposes, a reasonable and necessary expense that they
20 incurred in direct consequence of their duties.

21 61. As part of its regular business practice, Everlaw intentionally, willfully, and
22 repeatedly engaged in a pattern, practice, and/or policy that violates the FLSA and California Wage
23 Laws.

24 62. Everlaw's policy and pattern or practice includes but is not limited to:

25 a. willfully misclassifying Plaintiffs and Class Members as
26 exempt from the protections of federal and state overtime laws;

27 b. willfully failing to record the time that its employees,
28 including Plaintiffs and Class Members, worked for the benefit of Everlaw;

1 c. willfully failing to keep payroll records as required by the
2 FLSA and California Wage Laws;

3 d. willfully failing to timely pay wages as required by the
4 California Wage Laws; and

5 e. willfully failing to pay its employees, including Plaintiffs
6 and Class Members, overtime wages for all of the overtime hours that they worked.

7 63. Everlaw was or should have been aware that the FLSA requires it to pay their Sales
8 Representatives overtime compensation for all hours worked in excess of 40 per week.

9 64. Everlaw's failure to pay Plaintiffs and Class Members overtime wages for their
10 work in excess of 40 hours per week was willful, intentional, and in bad faith.

11 65. Everlaw's unlawful conduct has been widespread, repeated, and consistent.

12 **FIRST CAUSE OF ACTION**

13 **FLSA – Overtime Wages**

14 **29 U.S.C. §§ 201, *et seq.***

15 **(Brought by Plaintiffs Individually and on Behalf of the FLSA Collective)**

16 66. Plaintiffs reallege and incorporate by reference all allegations in all preceding
17 paragraphs.

18 67. Everlaw engaged in a widespread pattern and practice of violating the FLSA, as
19 described in this Class and Collective Action Complaint.

20 68. Plaintiffs have consented in writing to be parties to this action, pursuant to 29
21 U.S.C. § 216(b).

22 69. At all relevant times, Plaintiffs and other similarly situated current and former
23 employees were engaged in commerce and/or the production of goods for commerce within the
24 meaning of 29 U.S.C. § 207(a).

25 70. The overtime wage provisions set forth in §§ 201, *et seq.* of the FLSA apply to
26 Everlaw.

27 71. Everlaw is an employer engaged in commerce and/or the production of goods for
28 commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

72. At all times relevant, Plaintiffs were employees within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

73. Everlaw failed to pay Plaintiffs and other similarly situated current and former employees the overtime wages to which they were entitled under the FLSA.

74. Everlaw's violations of the FLSA, as described in this Complaint, were willful and intentional.

75. Everlaw failed to make a good faith effort to comply with the FLSA with respect to its compensation of Plaintiffs and other similarly situated current and former employees.

76. Because Everlaw's violations of the FLSA were willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. § 255.

77. As a result of Everlaw's willful violations of the FLSA, Plaintiffs and all other similarly situated employees suffered damages by being denied overtime wages in accordance with 29 U.S.C. §§ 201, *et seq.*

78. As a result of the unlawful acts of Everlaw, Plaintiffs and other similarly situated current and former employees were deprived of overtime compensation and other wages in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION

California Wage Laws – Overtime Wages

California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 510, 1194 (Brought by Plaintiffs Individually and on Behalf of the California Class)

79. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

80. California law requires employers, such as Everlaw, to pay overtime compensation to all non-exempt employees for all hours worked over 40 per workweek and over 8 per day.

81. Plaintiffs and the California Class members are non-exempt employees entitled to be paid overtime compensation for all overtime hours worked.

82. At all relevant times, Plaintiffs and the California Class members worked in excess of 40 hours in a workweek and 8 hours in a workday.

83. At all relevant times, Everlaw failed and refused to pay Plaintiffs and the California Class members overtime compensation.

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

THIRD CAUSE OF ACTION

California Wage Laws – Record-Keeping Violations California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code § 226 (Brought by Plaintiffs Individually and on Behalf of the California Class)

85. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

86. Everlaw knowingly and intentionally failed to provide timely, accurate, itemized wage statements including, *inter alia*, all hours worked, to Plaintiffs and the California Class members in accordance with California Wage Order Nos. 4-2001 and 7-2001 and California Labor Code § 226(a). Such failure caused injury to Plaintiffs and the California Class members, by, among other things, impeding them from knowing the amount of wages to which they are and were entitled.

87. Plaintiffs and the California Class members are entitled to and seek injunctive relief requiring Everlaw to comply with California Labor Code §§ 226(a), and further seek the amount provided under California Labor Code § 226(e), including the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period.

FOURTH CAUSE OF ACTION

California Wage Laws – Wage Payment Provisions Cal. Lab. Code §§ 201, 202, & 203 (Brought by Plaintiffs Individually and on Behalf of the California Class)

88. Plaintiffs reallege and incorporate by reference all allegations in all preceding

1 paragraphs.

2 89. California Labor Code §§ 201 and 202 require Everlaw to pay their employees all
3 wages due upon termination within the time specified by law. California Labor Code § 203
4 provides that if an employer willfully fails to timely pay such wages, the employer must continue
5 to pay the subject employees' wages until the back wages are paid in full or an action is
6 commenced, up to a maximum of thirty (30) days of wages.

7 90. Plaintiffs and all California Class members who ceased employment with Everlaw
8 are entitled to unpaid compensation, but to date have not received such compensation.

9 91. More than thirty (30) days have passed since Plaintiffs and certain California Class
10 members left Everlaw's employ.

11 92. Plaintiffs, on behalf of themselves and the California Class members, seek waiting
12 time penalties pursuant to California Labor Code § 203, attorneys' fees and costs, and such other
13 legal and equitable relief as the Court deems just and proper.

14 **FIFTH CAUSE OF ACTION**

15 **California Wage Laws – Untimely Payment of Wages**
16 **Cal. Lab. Code §§ 204, 210**

17 **(Brought by Plaintiffs Individually and on Behalf of the California Class)**

18 93. Plaintiffs reallege and incorporate by reference all allegations in all preceding
19 paragraphs.

20 94. Under California Labor Code § 204, labor performed between the 1st and 15th days
21 of a calendar month must be paid for between the 16th and the 26th of that month, and labor
22 performed between the 16th and the last day of a calendar month must be paid for between the 1st
23 and the 10th day of the following month. Other payroll periods such as weekly, biweekly (every
24 two weeks) or semimonthly (twice per month), when the earning period is something other than
25 between the 1st and 15th, and 16th and last day of the month, must be paid within seven calendar
26 days of the end of the payroll period within which the wages were earned.

27 95. California Labor Code § 210(a) provides that persons who fail to pay wages as
28 provided in § 204 are subject to statutory penalties of: (1) one hundred dollars (\$100) for each

1 failure to pay each employee for any initial violation; and (2) two hundred dollars (\$200) for each
2 failure to pay each employee, plus 25 percent of the amount unlawfully withheld, for each
3 subsequent violation, or any willful or intentional violation.

4 96. Everlaw failed to pay Plaintiffs and California Class members all of their wages
5 earned in a timely manner, in violation of California Labor Code § 204.

6 97. Plaintiffs, on behalf of themselves and the California Class members, seek waiting
7 time penalties pursuant to California Labor Code § 210, attorneys' fees and costs, and such other
8 legal and equitable relief as the Court deems just and proper.

9 **SIXTH CAUSE OF ACTION**

10 **California Wage Laws – Meal and Rest Period Provisions**
11 **Cal. Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 218.5, 226.7, & 512**
(Brought by Plaintiffs Individually and on Behalf of the California Class)

12 98. Plaintiffs reallege and incorporate by reference the preceding paragraphs as if they
13 were set forth again herein.

14 99. Plaintiffs and the California Class members regularly work and have worked in
15 excess of five-hour shifts without being afforded at least a half-hour meal break in which they
16 were relieved of all duty, and more than ten-hour shifts without being afforded a second half-hour
17 meal break in which they were relieved of all duty, as required by California Labor Code §§ 226.7
18 and 512 and Wage Order Nos. 4-2001 and 7-2001, § 11.

19 100. In addition, Plaintiffs and the California Class members regularly work and have
20 worked without being afforded at least one ten-minute rest break, in which they were relieved of
21 all duty, per every four hours of work or major fraction thereof that they performed, as required
22 by California Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, § 12.

23 101. As a result of Everlaw's failure to afford proper meal periods, Everlaw is liable to
24 Plaintiffs and the California Class members for one hour of additional pay at the regular rate of
25 compensation for each workday that the proper meal periods were not provided, pursuant to
26 California Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, § 11.

27 102. As a result of Everlaw's failure to afford proper rest periods, Everlaw is liable to
28 Plaintiffs and the California Class members for one hour of additional pay at the regular rate of

1 compensation for each workday that the proper rest periods were not provided, pursuant to
2 California Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, § 12.

3 **SEVENTH CAUSE OF ACTION**

4 **California Wage Laws – Expense Reimbursement**

5 **Cal. Lab. Code §2802**

6 **(Brought by Plaintiffs Individually and on Behalf of the California Class)**

7 103. Plaintiffs reallege and incorporate by reference all allegations in all preceding
8 paragraphs.

9 104. The foregoing conduct, as alleged, constitutes a violation of California Labor Code
10 § 2802, which provides for the reimbursement of employee expenses incurred while carrying out
11 their employment or to comply with employer requirements.

12 105. Class members, including Plaintiffs have incurred and continue to incur expenses
13 related to home internet usage for business purposes.

14 106. Everlaw had a policy and practice of failing and refusing to reimburse Plaintiffs
15 and Class members for home internet work-related expenses and thus violated and continues to
16 violate California Labor Code § 2802.

17 107. Plaintiffs, on behalf of themselves and the Class members, seeks the amount of the
18 respective unpaid expenses owed them, interest, attorneys’ fees and costs pursuant to California
19 Labor Code § 2802(b) and (c), and such other legal and equitable relief as the Court deems just
20 and proper.

21 **EIGHTH CAUSE OF ACTION**

22 **California Wage Laws – Unfair Competition**

23 **California Business & Professions Code §§ 17200, *et seq.***

24 **(Brought by Plaintiffs Individually and on Behalf of the California Class)**

25 108. Plaintiffs reallege and incorporate by reference all allegations in all preceding
26 paragraphs.

27 109. The foregoing conduct, as alleged, violates the California Unfair Competition Law
28 (“UCL”). The UCL prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair
business acts or practices.

110. Beginning at a date unknown to Plaintiffs, but at least as long ago as four years

1 prior to the filing of the Class and Collective Action Complaint, Everlaw committed, and continued
2 to commit, acts of unfair competition, as defined by the UCL, by, among other things, engaging in
3 the acts and practices described herein. Everlaw's conduct as alleged herein has injured Plaintiffs
4 and the California Class members by wrongfully denying them earned wages, and therefore was
5 substantially injurious to them.

6 111. Everlaw engaged in unfair competition in violation of the UCL by violating, *inter*
7 *alia*, each of the following laws. Each of these violations constitutes an independent and separate
8 violation of the UCL:

- 9 a. FLSA, 29 U.S.C. §§ 201, *et seq.*;
- 10 b. Cal. Lab. Code §§ 201-204;
- 11 c. Cal. Lab. Code § 1194 & 510;
- 12 d. Cal. Lab. Code § 2802;
- 13 e. Cal. Lab. Code §§ 226.7 & 512;
- 14 f. Cal. Lab. Code § 226; and
- 15 g. Cal. Lab. Code § 510.

16 112. Everlaw's course of conduct, acts, and practices in violation of the California laws
17 mentioned in the above paragraph constitute a separate and independent violation of the UCL.
18 Everlaw's conduct described herein violates the policy or spirit of such laws or otherwise
19 significantly threatens or harms competition.

20 113. The unlawful and unfair business practices and acts of Everlaw, described above,
21 have injured Plaintiffs and the California Class members in that they were wrongfully denied the
22 payment of earned overtime wages.

23 114. Plaintiffs, individually and on behalf of the California Class, seek recovery of
24 attorneys' fees and costs of this action to be paid by Everlaw, as provided by the UCL and
25 California Labor Code §§ 218, 218.5, and 1194.

26 115. Plaintiffs, individually and on behalf of the California Class, seek restitution in the
27 amount of the respective unpaid wages earned and due, including for unpaid overtime at a rate not
28 less than one and one-half times the regular rate of pay for work performed in excess of 40 hours

1 in a workweek, or 8 hours in a day, and double the regular rate of pay for work performed in excess
2 of 12 hours per day.

3 **NINETH CAUSE OF ACTION**

4 **Private Attorneys General Act**

5 **Cal. Lab. Code §§ 2698, *et seq.***

6 **(Brought by Plaintiff Marks Individually and on Behalf of the Aggrieved Employees)**

7 116. Plaintiff Marks, on behalf of herself and all Aggrieved Employees, realleges and
8 incorporates by reference all other paragraphs as if they were set forth again herein.

9 117. Plaintiff is an Aggrieved Employee under PAGA, as she was employed by Everlaw
10 during the applicable statutory period and suffered one or more of the California Labor Code
11 violations set forth herein. Accordingly, she seeks to recover on behalf of herself and all other
12 current and former Aggrieved Employees of Everlaw, the civil penalties provided by PAGA, plus
13 reasonable attorney's fees and costs.

14 118. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following
15 California Labor Code provisions:

16 a. Failure to pay overtime wages in violation of California
17 Labor Code §§ 510, 588, 1994 and 1998 and Wage Order Nos. 4-2001 & 7-2001;

18 b. Failure to provide meal and rest breaks in violation of
19 California Labor Code §§ 281.5, 226.7, 512, and Wage Order Nos. 4-2001 & 7-
20 2001;

21 c. Failure to provide itemized wage statements in violation of
22 California Labor Code §§ 226 and 226.3;

23 d. Failure to reimburse for all reasonable and necessary
24 expenditures for home internet incurred by Sales Representatives in direct
25 consequence of the discharge of their duties, in violation of California Labor Code
26 § 2802; and

27 e. Failure to provide prompt payment of wages upon
28 termination and resignation in violation of California Labor Code §§ 201, 202, and
203.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs, individually and on behalf of the FLSA Collective, request the
3 following relief:

- 4 A. Designation of this action as a collective action and prompt issuance of notice
5 pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA
6 Collective, apprising them of the pendency of this action, and permitting them to
7 file Consent to Join forms pursuant to 29 U.S.C. § 216(b);
- 8 B. An award of damages, according to proof, including liquidated damages, to be paid
9 by Everlaw;
- 10 C. Appropriate equitable and injunctive relief to remedy violations, including but not
11 necessarily limited to an order enjoining Everlaw from continuing its unlawful
12 practices under the FLSA and/or a declaration that Everlaw's acts violate the
13 FLSA;
- 14 D. A reasonable service award for each Plaintiff to compensate them for the time
15 they have spent and will spend attempting to recover wages for the FLSA
16 Collective and for the risks they took and will take in doing so;
- 17 E. Costs of the action incurred herein;
- 18 F. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216;
- 19 G. Post-judgment interest, as provided by law; and
- 20 H. Such other relief as this Court deems necessary, just, and proper.

21 **WHEREFORE**, Plaintiffs, on behalf of themselves and the California Class members
22 they seek to represent, request the following relief:

- 23 A. Certification of this action as a class action on behalf of the California Class;
- 24 B. Designation of Plaintiffs as Representative of the California Class;
- 25 C. Designation of Plaintiffs' counsel of record as Class Counsel for the California
26 Class;
- 27 D. An award of damages, penalties, and restitution to be paid by Everlaw according
28 to proof;

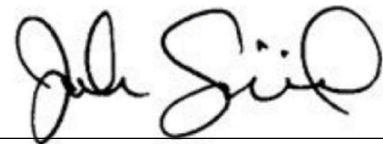
- 1 E. Appropriate equitable and injunctive relief to remedy violations, including but not
2 necessarily limited to an order enjoining Everlaw from continuing their unlawful
3 practices under the California Wage Laws and/or a declaration that Everlaw's acts
4 violate the California Wage Laws;
- 5 F. A reasonable service award to compensate Plaintiffs for the time they have spent
6 and will spend attempting to recover wages for the California Class members and
7 for the risks they took and will take in doing so;
- 8 G. Attorneys' fees and costs of suit;
- 9 H. Prejudgment and post-judgment interest, as provided by law; and
- 10 I. Such other relief as the Court may deem just and proper.

11 **WHEREFORE**, Plaintiff Marks, individually and on behalf of the Aggrieved Employees
12 requests the following relief:

- 13 A. Civil penalties provided, per violation, under the California Private Attorneys
14 General Act, California Labor Code §§ 2698, *et seq.*

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17 Dated: San Francisco, CA
18 June 10, 2020

Respectfully submitted,

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** pro hac vice* motion forthcoming

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Aggrieved Employees*