

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
PHILLIP SONG (SBN 326572)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ANNMARIE ALBANEZ, individually, and
on behalf of other members of the general
public similarly situated;

Plaintiff,

v.

OCMBC, INC., a California corporation
d/b/a LOANSTREAM MORTGAGE; and
DOES 1 through 100, inclusive;

Defendants.

Case No.: 30-2019-01078636-CU-OE-CXC

Assigned for all purposes to:
Honorable Glenda Sanders
Dept. CX101

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violations of California Labor Code §2698, et seq. (Private Attorneys General Act of 2004); and
- (9) Violation of California Business & Professions Code §§ 17200, et seq.

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff ANNMARIE ALBANEZ (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated, and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Orange. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of Orange. In addition, Defendants employed Plaintiff in the County of Orange.

PARTIES

5. Plaintiff ANNMARIE ALBANEZ is an individual residing in the State of California.

6. Defendant OCMBC, INC., at all times herein mentioned, was and is, upon information and belief, a California corporation, and at all times herein mentioned, an employer whose employees are engaged throughout the State of California, including the County of Orange.

7. At all relevant times, Defendant OCMBC, INC., was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

1 8. At all times herein relevant, Defendants OCMBC, INC., and DOES 1 through 100,
2 and each of them, were the agents, partners, joint venturers, joint employers, representatives,
3 servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other,
4 and at all times relevant hereto were acting within the course and scope of their authority as such
5 agents, partners, joint venturers, joint employers, representatives, servants, employees,
6 successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly
7 committed with the ratification, knowledge, permission, encouragement, authorization and/or
8 consent of each defendant designated as a DOE herein.

9 9. The true names and capacities, whether corporate, associate, individual or
10 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues said
11 defendants by such fictitious names. Plaintiff is informed and believes, and based on that
12 information and belief alleges, that each of the defendants designated as a DOE is legally
13 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
14 the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.
15 Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities
16 when the same have been ascertained.

17 10. Defendant OCMBC, INC., and DOES 1 through 100 will hereinafter collectively
18 be referred to as “Defendants.”

19 11. Plaintiff further alleges that Defendants, directly or indirectly controlled or
20 affected the working conditions, wages, working hours, and conditions of employment of
21 Plaintiff and the other class members and aggrieved employees so as to make each of said
22 Defendants employers and employers liable under the statutory provisions set forth herein.

23 **CLASS ACTION ALLEGATIONS**

24 12. Plaintiff brings this action on her own behalf and on behalf of all other members
25 of the general public similarly situated, and, thus, seeks class certification under California Code
26 of Civil Procedure section 382.

27 ///

28 ///

- 1 13. The proposed class is defined as follows:
- 2 All current and former non-exempt employees who worked for any of the
- 3 Defendants within the State of California at any time during the period from four
- 4 years preceding the filing of this Complaint to August 6, 2020 .
- 5 14. Plaintiff reserves the right to establish subclasses as appropriate.
- 6 15. The class is ascertainable and there is a well-defined community of interest in the
- 7 litigation:
- 8 a. Numerosity: The class members are so numerous that joinder of all class
- 9 members is impracticable. The membership of the entire class is unknown
- 10 to Plaintiff at this time; however, the class is estimated to be greater than
- 11 fifty (50) individuals and the identity of such membership is readily
- 12 ascertainable by inspection of Defendants' employment records.
- 13 b. Typicality: Plaintiff's claims are typical of all other class members' as
- 14 demonstrated herein. Plaintiff will fairly and adequately protect the
- 15 interests of the other class members with whom she has a well-defined
- 16 community of interest.
- 17 c. Adequacy: Plaintiff will fairly and adequately protect the interests of each
- 18 class member, with whom she has a well-defined community of interest
- 19 and typicality of claims, as demonstrated herein. Plaintiff has no interest
- 20 that is antagonistic to the other class members. Plaintiff's attorneys, the
- 21 proposed class counsel, are versed in the rules governing class action
- 22 discovery, certification, and settlement. Plaintiff has incurred, and during
- 23 the pendency of this action will continue to incur, costs and attorneys'
- 24 fees, that have been, are, and will be necessarily expended for the
- 25 prosecution of this action for the substantial benefit of each class member.
- 26 d. Superiority: A class action is superior to other available methods for the
- 27 fair and efficient adjudication of this litigation because individual joinder
- 28 of all class members is impractical.

- 1 e. Public Policy Considerations: Certification of this lawsuit as a class action
2 will advance public policy objectives. Employers of this great state violate
3 employment and labor laws every day. Current employees are often afraid
4 to assert their rights out of fear of direct or indirect retaliation. However,
5 class actions provide the class members who are not named in the
6 complaint anonymity that allows for the vindication of their rights.

7 16. There are common questions of law and fact as to the class members that
8 predominate over questions affecting only individual members. The following common
9 questions of law or fact, among others, exist as to the members of the class:

- 10 a. Whether Defendants' failure to pay wages, without abatement or
11 reduction, in accordance with the California Labor Code, was willful;
12 b. Whether Defendants' had a pattern and practice of failing to pay their non-
13 exempt employees within the State of California for all hours worked,
14 missed (short, late, interrupted, and/or missed altogether) meal periods and
15 rest breaks in violation of California law;
16 c. Whether Defendants required Plaintiff and the other class members to
17 work over eight (8) hours per day and/or over forty (40) hours per week
18 and failed to pay the legally required overtime compensation to Plaintiff
19 and the other class members;
20 d. Whether Defendants properly calculated the regular rate for Plaintiff and
21 the other class members to worked overtime and earned incentive pay
22 including but not limited to bonuses and commissions;
23 e. Whether Defendants deprived Plaintiff and the other class members of
24 meal and/or rest periods or required Plaintiff and the other class members
25 to work during meal and/or rest periods without compensation;
26 f. Whether Defendants failed to pay minimum wages to Plaintiff and the
27 other class members for all hours worked;

28 ///

- 1 g. Whether Defendants failed to pay all wages due to Plaintiff and the other
2 class members within the required time upon their discharge or
3 resignation;
- 4 h. Whether Defendants complied with wage reporting as required by the
5 California Labor Code; including, *inter alia*, section 226;
- 6 i. Whether Defendants failed to reimburse Plaintiff and the other class
7 members for necessary business-related expenses and costs;
- 8 j. Whether Defendants' conduct was willful or reckless;
- 9 k. Whether Defendants engaged in unfair business practices in violation of
10 California Business & Professions Code section 17200, *et seq.*;
- 11 l. The appropriate amount of damages, restitution, and/or monetary penalties
12 resulting from Defendants' violation of California law; and
- 13 m. Whether Plaintiff and the other class members are entitled to
14 compensatory damages pursuant to the California Labor Code.

15 **GENERAL ALLEGATIONS**

16 17. At all relevant times set forth herein, Defendants employed Plaintiff and other
17 persons as non-exempt employees within the State of California.

18 18. Plaintiff commenced her employment as non-exempt employee for Defendants in
19 the State of California on or about February 2016 and resigned on or about September 2016.

20 19. Defendants hired Plaintiff and the other class members and classified them as
21 non-exempt employees, and failed to compensate them for all hours worked, missed meal
22 periods and/or rest breaks.

23 20. Defendants had the authority to hire and terminate Plaintiff and the other class
24 members; to set work rules and conditions governing Plaintiff's and the other class members'
25 employment; and to supervise their daily employment activities.

26 21. Defendants exercised sufficient authority over the terms and conditions of
27 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
28 and the other class members.

22. Defendants directly hired and paid wages and benefits to Plaintiff and the other class members.

23. Defendants continue to employ non-exempt employees within the State of California.

24. Plaintiff and the other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

25. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a pattern and practice of wage abuse against their non-exempt employees within the State of California, involving, *inter alia*, failing to pay them for all regular and/or overtime wages earned, missed meal periods and rest breaks in violation of California law.

26. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive certain wages for overtime compensation and that they were not receiving wages for overtime compensation.

27. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide Plaintiff and the other class members the required rest and meal periods during the relevant time period as required under the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all applicable penalties.

28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other class member's regular rate of pay when a meal period was missed, and they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other class member's regular rate of pay when a meal period was missed.

///

///

///

1 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and the other class members were entitled to receive
3 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
4 member's regular rate of pay when a rest period was missed, and they did not receive all rest
5 periods or payment of one additional hour of pay at Plaintiff's and the other class members'
6 regular rate of pay when a rest period was missed.

7 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Plaintiff and the other class members were entitled to receive
9 at least minimum wages for compensation and that they were not receiving at least minimum
10 wages for all hours worked.

11 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knew or should have known that Plaintiff and the other class members were entitled to receive
13 all wages owed to them upon discharge or resignation, including overtime and minimum wages
14 and meal and rest period premiums, and they did not, in fact, receive all such wages owed to
15 them at the time of their discharge or resignation.

16 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 knew or should have known that Plaintiff and the other class members were entitled to receive
18 complete and accurate wage statements in accordance with California law, but, in fact, they did
19 not receive complete and accurate wage statements from Defendants. The deficiencies included,
20 *inter alia*, the failure to include the total number of hours worked by Plaintiff and the other class
21 members.

22 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 knew or should have known that Plaintiff and the other class members were entitled to
24 reimbursement for necessary business-related expenses.

25 ///

26 ///

27 ///

1 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that they had a duty to compensate Plaintiff and the other class
3 members pursuant to California law, and that Defendants had the financial ability to pay such
4 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented
5 to Plaintiff and the other class members that they were properly denied wages, all in order to
6 increase Defendants' profits.

7 35. During the relevant times set forth herein, Defendants failed to pay overtime
8 wages to Plaintiff and the other class members for all hours worked. Plaintiff and the other class
9 members were required to work more than eight (8) hours per day and/or forty (40) hours per
10 week without overtime compensation.

11 36. During the relevant times set forth herein, Defendants failed to provide the
12 requisite uninterrupted meal and rest periods to Plaintiff and the other class members.

13 37. During the relevant times set forth herein, Defendants failed to pay Plaintiff and
14 the other class members at least minimum wages for all hours worked.

15 38. During the relevant times set forth herein, Defendants failed to pay Plaintiff and
16 the other class members all wages owed to them upon discharge or resignation.

17 39. During the relevant times set forth herein, Defendants failed to provide complete
18 or accurate wage statements to Plaintiff and the other class members.

19 40. During the relevant times set forth herein, Defendants failed to reimburse Plaintiff
20 and the other class members for necessary business-related expenses and costs.

21 41. During the relevant times set forth herein, Defendants failed to properly
22 compensate Plaintiff and the other class members pursuant to California law in order to increase
23 Defendants' profits.

24 42. California Labor Code section 218 states that nothing in Article 1 of the Labor
25 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due
26 to him [or her] under this article."

27 ///

28 ///

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against OCMBC, INC., and DOES 1 through 100)

43. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 42, and each and every part thereof with the same force and effect as though fully set forth herein.

44. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

45. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and the other class members employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

46. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

47. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

48. During the relevant time period, Plaintiff and the other class members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

///

///

///

49. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff and the other class members as well as failure to properly calculate the regular rate by including bonuses, commissions and/or incentive pay into the regular rate of pay.

50. Defendants' failure to pay Plaintiff and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

51. Pursuant to California Labor Code section 1194, Plaintiff and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against OCMBC, INC., and DOES 1 through 100)

52. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 51, and each and every part thereof with the same force and effect as though fully set forth herein.

53. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

54. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

55. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

1 56. At all relevant times, the applicable IWC Wage Order and California Labor Code
2 section 512(a) further provide that an employer may not require, cause or permit an employee
3 to work for a work period of more than ten (10) hours per day without providing the employee
4 with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the
5 total hours worked is no more than twelve (12) hours, the second meal period may be waived
6 by mutual consent of the employer and the employee only if the first meal period was not
7 waived.

8 57. During the relevant time period, Plaintiff and the other class members who were
9 scheduled to work for a period of time no longer than six (6) hours, and who did not waive their
10 legally-mandated meal periods by mutual consent, were required to work for periods longer than
11 five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or
12 rest period.

13 58. During the relevant time period, Plaintiff and the other class members who were
14 scheduled to work for a period of time in excess of six (6) hours were required to work for
15 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
16 (30) minutes and/or rest period.

17 59. During the relevant time period, Defendants intentionally and willfully required
18 Plaintiff and the other class members to work during meal periods and failed to compensate
19 Plaintiff and the other class members the full meal period premium for work performed during
20 meal periods.

21 60. During the relevant time period, Defendants failed to pay Plaintiff and the other
22 class members the full meal period premium due pursuant to California Labor Code section
23 226.7.

24 61. Defendants' conduct violates applicable IWC Wage Order and California Labor
25 Code sections 226.7 and 512(a).

26 ///

27 ///

28 ///

62. Pursuant to applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against OCMBC, INC., and DOES 1 through 100)

63. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 62, and each and every part thereof with the same force and effect as though fully set forth herein.

64. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

65. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

66. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

67. During the relevant time period, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

68. During the relevant time period, Defendants willfully required Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and the other class members the full rest period premium for work performed during rest periods.

69. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full rest period premium due pursuant to California Labor Code section 226.7.

70. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

71. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against OCMBC, INC., and DOES 1 through 100)

72. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 71, and each and every part thereof with the same force and effect as though fully set forth herein.

73. At all relevant times, California Labor Code sections 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

74. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194 and 1197 by requiring employees to work off-the-clock and a system of rounding time in favor of Defendant, and automatically deducting 30-minutes for meals without compensation.

75. Defendants' failure to pay Plaintiff and the other class members the minimum wage as required violates California Labor Code sections 1194 and 1197. Pursuant to those sections Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

///

///

76. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against OCMBC, INC., and DOES 1 through 100)

77. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 76, and each and every part thereof with the same force and effect as though fully set forth herein.

78. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

79. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

80. Defendants' failure to pay Plaintiff and the other class members who are no longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

81. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

82. Plaintiff and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

1 **SIXTH CAUSE OF ACTION**

2 **(Violation of California Labor Code § 226(a))**

3 **(Against OCMBC, INC., and DOES 1 through 100)**

4 83. Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 82, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 84. At all material times set forth herein, California Labor Code section 226(a)
8 provides that every employer shall furnish each of his or her employees an accurate itemized
9 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
10 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
11 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
12 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
13 dates of the period for which the employee is paid, (7) the name of the employee and his or her
14 social security number, (8) the name and address of the legal entity that is the employer, and (9)
15 all applicable hourly rates in effect during the pay period and the corresponding number of hours
16 worked at each hourly rate by the employee. The deductions made from payments of wages
17 shall be recorded in ink or other indelible form, properly dated, showing the month, day, and
18 year, and a copy of the statement or a record of the deductions shall be kept on file by the
19 employer for at least three years at the place of employment or at a central location within the
20 State of California.

21 85. Defendants have intentionally and willfully failed to provide Plaintiff and the
22 other class members with complete and accurate wage statements. The deficiencies include, but
23 are not limited to: the failure to include the total number of hours worked by Plaintiff and the
24 other class members.

25 86. As a result of Defendants' violation of California Labor Code section 226(a),
26 Plaintiff and the other class members have suffered injury and damage to their statutorily-
27 protected rights.

28 ///

1 87. More specifically, Plaintiff and the other class members have been injured by
2 Defendants' intentional and willful violation of California Labor Code section 226(a) because
3 they were denied both their legal right to receive, and their protected interest in receiving,
4 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

5 88. Plaintiff and the other class members are entitled to recover from Defendants the
6 greater of their actual damages caused by Defendants' failure to comply with California Labor
7 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

8 89. Plaintiff and the other class members are also entitled to injunctive relief to ensure
9 compliance with this section, pursuant to California Labor Code section 226(g).

10 **SEVENTH CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 2800 and 2802)**

12 **(Against OCMBC, INC., and DOES 1 through 100)**

13 90. Plaintiff incorporates by reference the allegations contained in paragraphs 1
14 through 89, and each and every part thereof with the same force and effect as though fully set
15 forth herein.

16 91. Pursuant to California Labor Code sections 2800 and 2802, an employer must
17 reimburse its employee for all necessary expenditures incurred by the employee in direct
18 consequence of the discharge of his or her job duties or in direct consequence of his or her job
19 duties or in direct consequence of his or her obedience to the directions of the employer.

20 92. Plaintiff and the other class members incurred necessary business-related
21 expenses and costs that were not fully reimbursed by Defendants.

22 93. Defendants have intentionally and willfully failed to reimburse Plaintiff and the
23 other class members for all necessary business-related expenses and costs. Plaintiff and the other
24 class members are entitled to recover from Defendants their business-related expenses and costs
25 incurred during the course and scope of their employment, plus interest accrued from the date
26 on which the employee incurred the necessary expenditures at the same rate as judgments in
27 civil actions in the State of California.

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §2698, et seq.)**

3 **(Against OCMBC, INC., and DOES 1 through 100)**

4 94. Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 93, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 95. The Private Attorneys General Act of 2004 (“PAGA”) expressly establishes that
8 any provision of the California Labor Code which provides for a civil penalty to be assessed and
9 collected by the Labor and Workforce Development Agency (“LWDA”), or any of its
10 departments, divisions, commissions, boards, agencies or employees for a violation of
11 the California Labor Code, may be recovered through a civil action brought by an
12 aggrieved employee on behalf of himself or herself, and other current or former employees

13 96. On August 19, 2020 Plaintiff provided written notice to the LWDA
14 and Defendants of the specific provisions of the Labor Code she contends were violated, and
15 the theories supporting her contentions. Attached hereto as Exhibit 1 and incorporated
16 by reference is a copy of the written notice to the LWDA. Plaintiff believes that on or
17 about October 23, 2020, the sixty-five (65) day notice period will expire as to all Defendants,
18 and Plaintiff will have exhausted the statutory time period to bring this action

19 97. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
20 employees” as defined by California Labor Code § 2699(c) in that they are all current or former
21 employees (whether hired directly or through a staffing agency or labor contractor) of
22 Defendants who worked for Defendants at any time during the period from August 12, 2019 to
23 August 6, 2020, and one or more of the alleged violations was committed against them.

24 **Failure to Pay Minimum and Overtime Wages**

25 98. At all times relevant herein, Defendants were required to compensate their non-
26 exempt employees minimum wages for all hours worked and overtime wages for all hours
27 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
28 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

1 99. As a pattern and practice, Defendants failed to compensate Plaintiff and other
2 aggrieved current and former employees for all hours worked and/or failed to compensate
3 Plaintiff and other aggrieved current and former employees at the correct overtime rate, resulting
4 in a failure to pay all minimum wages and overtime wages, where applicable. Furthermore,
5 Defendants failed to pay Plaintiff and other aggrieved current and former employees all
6 minimum wages and overtime wages due to a pattern and practice of requiring employees to
7 work off-the-clock, a system of rounding time in favor of Defendants, and automatically
8 deducting 30-minutes for meals without compensation.

9 **Failure to Provide Meal Periods and Rest Breaks**

10 100. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants
11 were required to authorize and permit their non-exempt employees to take a 10-minute rest break
12 for every four (4) hours worked or major fraction thereof, and were further required to provide
13 their non-exempt employees with a 30-minute meal period for every five (5) hours worked.

14 101. As a pattern and practice, Defendants failed to provide Plaintiff and other
15 aggrieved current and former employees with legally-mandated meal periods and rest breaks
16 and failed to pay proper compensation for this failure.

17 **Failure to Timely Pay Wages During Employment**

18 102. At all times relevant herein, Defendants were required to pay their employees
19 within a specified time period pursuant to the mandate of Labor Code § 204.

20 103. As a pattern and practice, Defendants failed to pay Plaintiff and other aggrieved
21 current and former employees all wages due and owing them within the required time period.

22 **Failure to Timely Pay Wages Upon Termination**

23 104. At all times relevant herein, Defendants were required to pay their employees all
24 wages owed in a timely fashion at the end of employment pursuant to California Labor Code §§
25 201 to 204.

26 ///

27 ///

28 ///

1 105. As a result of Defendants' Labor Code violations alleged above, Defendants
2 failed to pay Plaintiff and the other aggrieved former employees their final wages pursuant to
3 Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to Labor Code
4 § 203.

5 **Failure to Provide Complete and Accurate Wage Statements**

6 106. At all times relevant herein, Defendants were required to keep accurate records
7 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

8 107. As a result of Defendants' various Labor Code violations, Defendants failed to
9 keep accurate records regarding Plaintiff and other aggrieved current and former employees. For
10 example, Defendants failed in their affirmative obligation to keep accurate records regarding
11 Plaintiff and other aggrieved current and former employees' gross wages earned, total hours
12 worked, all deductions, net wages earned, and all applicable hourly rates and the number of
13 hours worked at each hourly rate.

14 **Failure to Reimburse Business Expenses**

15 108. At all times relevant herein, Defendants were required to reimburse its employees
16 for any and all necessary expenditures or losses incurred by the employees in
17 direct consequences of the discharge or his or her duties pursuant to the mandate of Labor Code
18 §§ 2800 and 2802.

19 109. As a pattern and practice, Defendants failed to pay Plaintiff and other aggrieved
20 current and former employees all business expenses incurred and owing them within the
21 required time period.

22 **Penalties**

23 110. Pursuant to California Labor Code § 2699, Plaintiff, individually, and on behalf
24 of other current and former aggrieved employees, requests and is entitled to recover from
25 Defendants, and each of them, civil penalties, interest, attorneys' fees and costs
26 pursuant, including but not limited to:

27 ///

28 ///

111. Penalties under California Labor Code § 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

112. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

113. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

114. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

115. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

116. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

NINTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, *et seq.*)

(Against OCMBC, INC., and DOES 1 through 100)

117. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 116, and each and every part thereof with the same force and effect as though fully set forth herein.

///

///

///

1 118. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
2 unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants'
3 competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public
4 interest within the meaning of Code of Civil Procedure section 1021.5.

5 119. Defendants' activities as alleged herein are violations of California law, and
6 constitute unlawful business acts and practices in violation of California Business & Professions
7 Code section 17200, *et seq.*

8 120. A violation of California Business & Professions Code section 17200, *et seq.* may
9 be predicated on the violation of any state or federal law. In this instant case, Defendants'
10 policies and practices of requiring employees, including Plaintiff and the other class members,
11 to work overtime without paying them proper compensation violate California Labor Code
12 sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees,
13 including Plaintiff and the other class members, to work through their meal and rest periods
14 without paying them proper compensation violate California Labor Code sections 226.7 and
15 512(a). Defendants' policies and practices of failing to pay minimum wages violate California
16 Labor Code sections 1194 and 1197.1. Moreover, Defendants' policies and practices of failing
17 to timely pay wages to Plaintiff and the other class members violate California Labor Code
18 sections 201, and 202. Defendants also violated California Labor Code sections 226(a), 2800
19 and 2802.

20 121. As a result of the herein described violations of California law, Defendants
21 unlawfully gained an unfair advantage over other businesses.

22 122. Plaintiff and the other class members have been personally injured by Defendants'
23 unlawful business acts and practices as alleged herein, including but not necessarily limited to
24 the loss of money and/or property.

25 ///

26 ///

27 ///

1 123. Pursuant to California Business & Professions Code sections 17200, et seq.,
2 Plaintiff and the other class members are entitled to restitution of the wages withheld and
3 retained by Defendants during a period that commences four years prior to the filing of this
4 Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section
5 1021.5 and other applicable laws; and an award of costs.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, individually, and on behalf of other members of the general public similarly
8 situated, requests a trial by jury.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
11 public similarly situated and on behalf of other aggrieved employees pursuant to the California
12 Private Attorney General Act, prays for relief and judgment against Defendants, jointly and
13 severally, as follows:

14 **Class Certification**

- 15 1. That this action be certified as a class action;
16 2. That Plaintiff be appointed as the representative of the Class;
17 3. That counsel for Plaintiff be appointed as Class Counsel; and
18 4. That Defendants provide to Class Counsel immediately the names and most
19 current/last known contact information (address, e-mail and telephone numbers) of all class
20 members.

21 **As to the First Cause of Action**

- 22 5. That the Court declare, adjudge and decree that Defendants violated California
23 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
24 all overtime wages due to Plaintiff and the other class members;

- 25 6. For general unpaid wages at overtime wage rates and such general and special
26 damages as may be appropriate;

- 27 7. For pre-judgment interest on any unpaid overtime compensation commencing
28 from the date such amounts were due;

1 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Labor Code section 1194; and

3 9. For such other and further relief as the Court may deem just and proper.

4 **As to the Second Cause of Action**

5 10. That the Court declare, adjudge and decree that Defendants violated California
6 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
7 provide all meal periods (including second meal periods) to Plaintiff and the other class
8 members;

9 11. That the Court make an award to Plaintiff and the other class members of one (1)
10 hour of pay at each employee's regular rate of compensation for each workday that a meal period
11 was not provided;

12 12. For all actual, consequential, and incidental losses and damages, according to
13 proof;

14 13. For premium wages pursuant to California Labor Code section 226.7(b);

15 14. For pre-judgment interest on any unpaid wages from the date such amounts were
16 due;

17 15. For reasonable attorneys' fees and costs of suit incurred herein; and

18 16. For such other and further relief as the Court may deem just and proper.

19 **As to the Third Cause of Action**

20 17. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
22 rest periods to Plaintiff and the other class members;

23 18. That the Court make an award to Plaintiff and the other class members of one (1)
24 hour of pay at each employee's regular rate of compensation for each workday that a rest period
25 was not provided;

26 19. For all actual, consequential, and incidental losses and damages, according to
27 proof;

28 20. For premium wages pursuant to California Labor Code section 226.7(b);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, and 1197, by willfully failing to pay minimum wages to Plaintiff and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

27. For liquidated damages pursuant to California Labor Code section 1194.2; and

28. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and the other class members no longer employed by Defendants;

30. For all actual, consequential, and incidental losses and damages, according to proof;

31. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and the other class members who have left Defendants' employ;

32. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

33. For such other and further relief as the Court may deem just and proper.

///

As to the Sixth Cause of Action

34. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

35. For actual, consequential and incidental losses and damages, according to proof;

36. For statutory penalties pursuant to California Labor Code section 226(e);

37. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g); and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For the imposition of civil penalties and/or statutory penalties;

42. For reasonable attorneys' fees and costs of suit incurred herein;

For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

43. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2698, et seq., the PAGA, for civil penalties pursuant to Defendants' violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d) 1194, 1197, 1197.1, 1198, 2800 and 2802.

44. Upon the Cause of Action, for costs and attorneys' fees pursuant to Labor Code sections 210, 278.5, 1194, and 2699, and any other applicable statute; and

45. For such other and further relief as the court may deem just and proper.

///

As to the Ninth Cause of Action

46. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, and 202 and by violating California Labor Code sections 226(a), 2800 and 2802.

47. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

48. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, *et seq.*;

49. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

50. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, *et seq.*; and

51. For such other and further relief as the Court may deem just and proper.

Dated: November 16, 2020

JUSTICE LAW CORPORATION

By: 
Douglas Han
Attorneys for Plaintiff

EXHIBIT 1

August 19, 2020

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov
State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

Re: OCMBC, Inc. d/b/a Loanstream Mortgage

Dear Representative:

We have been retained to represent AnnMarie Albanez against OCMBC Inc. d/b/a Loanstream Mortgage (including any and all affiliates, subsidiaries, and parents, and their shareholders, officers, directors, and employees) and individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1 for violations of California wage-and-hour laws (hereinafter collectively referred to as "Loanstream.")

Ms. Albanez is pursuing her California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis.¹ Therefore, Ms. Albanez may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

OCMBC, Inc. d/b/a Loanstream Mortgage is a California corporation that maintains offices, has agents, and/or transacts business in the State of California, including the County of Orange.

Loanstream employed Ms. Albanez as an hourly-paid, non-exempt employee in the State of California. Loanstream directly controlled the wages, hours and working conditions of Ms. Albanez's employment.

///

¹ The California Supreme Court has explained that "every PAGA action, whether seeking penalties for Labor Code violations as to only one aggrieved employee -- the plaintiff bringing the action -- or as to other employees as well, is a representative action on behalf of the state." *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 387; see also *Williams v. Superior Court* (2015) 237 Cal.App.4th 642, 647-649 (concluding that the plaintiff's status as an aggrieved employee was not subject to arbitration because a "representative" PAGA claim cannot be split into an arbitrable individual claim and a nonarbitrable representative claim).

As a pattern and practice, Loanstream failed to properly pay Ms. Albanez and other hourly-paid or non-exempt aggrieved employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements, and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Ms. Albanez has standing to pursue penalties on behalf of the state for violations affecting the aggrieved employees at Loanstream.

Loanstream has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.2, 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Ms. Albanez and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. Loanstream failed to compensate Ms. Albanez and other aggrieved employees for work performed off-the-clock, including pre- and post-shift. Loanstream failed to include non-discretionary bonuses, and/or commissions in aggrieved employees' regular rate of pay for purposes of overtime compensation. Additionally, Loanstream automatically deducted 30-minutes for meals from Ms. Albanez and other aggrieved employees' hours worked without compensation. Furthermore, Loanstream utilized a system of "rounding" of hours worked that systematically benefited Loanstream at the expense of Ms. Albanez and other aggrieved employees. Therefore, Ms. Albanez and other aggrieved employees were entitled to receive certain wages, including minimum wages, time-and-a-half, and/or double time over time wages, which they were not paid in violation of the law.

///

///

///

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, Loanstream routinely required Ms. Albanez and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and/or rest breaks to complete their daily workload in an efficient and timely manner, and comply with Loanstream's expectations. Additionally, Loanstream failed to authorize and permit Ms. Albanez and other aggrieved employees the requisite number of meal and rest breaks, including second meal breaks and third rest breaks when working shifts exceeding 10 hours in length. Despite these facts, Loanstream never compensated premium wages to Ms. Albanez and other aggrieved employees. Furthermore, if Loanstream compensated premium wages to Ms. Albanez and other aggrieved employees for non-compliant meal and rest periods, such premium wages were not paid at the employee's "regular rate of pay."

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Loanstream failed to pay Ms. Albanez and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204.

///

///

///

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Loanstream did not provide Ms. Albanez and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Loanstream were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Ms. Albanez and other aggrieved employees, (2) total hours worked by Ms. Albanez and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Ms. Albanez and other aggrieved employees, (4) all deductions for Ms. Albanez and other aggrieved employees, (5) net wages earned by Ms. Albanez and other aggrieved employees, (6) the inclusive dates of the period for which Ms. Albanez and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Ms. Albanez and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties and wages. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Ms. Albanez and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to their wages and penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Loanstream failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Ms. Albanez and other aggrieved employees.

///

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Loanstream did not provide aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work during meal breaks.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Loanstream intentionally and willfully failed to pay Ms. Albanez and other aggrieved employees their wages, earned and unpaid, within seventy-two (72) hours of their leaving Loanstream's employ. Ms. Albanez and other aggrieved employees have been denied their final wages and, therefore, are entitled to those final wages and up to 30 days' wages as "waiting time penalties."

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequences of his or her obedience to the directions of the employer. During the relevant time period, Loanstream did not reimburse Ms. Albanez and other aggrieved employees for all necessary business-related expenses and costs. As such, Ms. Albanez and other aggrieved employees are entitled to reimbursement for business-related expenses, plus interest.

We believe that Ms. Albanez and other current and former California-based hourly-paid or non-exempt employees of Loanstream are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.2, 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

///

///

LWDA

August 19, 2020

Page 6 of 6

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Ms. Albanez will seek these penalties and wages on her own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees employed by Loanstream within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a stylized flourish at the end.

Douglas Han, Esq.

CC: (By Certified Mail Only)

Douglas Vanderpool
c/o OCMBC, Inc. d/b/a Loanstream Mortgage
330 Main Street, Suite 203-B
Seal Beach, CA 90740
Agent for Service of Process for Sutherland Healthcare Solutions Inc.

Tyler T. Rasmussen
Bret Martin
c/o OCMBC, Inc. d/b/a Loanstream Mortgage
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, CA 92614

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103.

On November 16, 2020, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

Tyler T. Rasmussen
Bret Martin
Lauren Stockunas
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, California 92614

Attorney(s) for Defendant OCMBC, Inc. d/b/a Loanstream Mortgage

[X] BY ELECTRONIC SERVICE

Pursuant to the Court's Order or an agreement between the Parties regarding Electronic Service, I caused the documents described above to be E-Served through OneLegal.com by electronically mailing a true and correct copy to the individual(s) listed above, at the time indicated by OneLegal.com.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 16, 2020, at Pasadena, California.



Jacob Luthi

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is mbarbula@justicelawcorp.com

On November 19, 2020, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

for the following case: **Albanez v. OCMBC, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-803181-20**
Court Case No.: 30-2019-01078636-CU-OE-CXC
Orange County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 19, 2020, at Pasadena, California.



Jacob Luthi