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Superior Court of California
County of Riverside

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

TAMARA SUVOROVA, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

HENDRICK CO AUTOMOTIVE, LLC,
a North Carolina limited liability
company; VKS MURRIETA LIMITED
PARTNERSHIP, a California limited
partnership; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **CVRI2100246**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT:**

- 1. VIOLATION OF LABOR CODE §§ 226.7
AND 512;**
- 2. VIOLATION OF LABOR CODE § 226.7;**
- 3. VIOLATION OF LABOR CODE § 2802;**
- 4. VIOLATION OF LABOR CODE § 226;**
- 5. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200, *ET SEQ.*;**
- 6. VIOLATION OF LABOR CODE § 2698,
*ET SEQ.***

DEMAND OVER \$25,000.00

Plaintiff Tamara Suvorova ("Plaintiff") hereby submits this Class and Representative Action Complaint ("Complaint") against Defendants Hendrick Co Automotive, LLC, VKS Murrieta Limited Partnership, and Does 1 through 50 (collectively, "Defendants"), as an individual and on behalf of a class of all other similarly situated current and former employees of Defendant for damages and/or penalties for violations of the California Labor Code, including without limitation, failure to provide off-duty meal and rest breaks, reimburse business expenses,

1 and provide accurate payroll records, as follows:

2 **INTRODUCTION**

3 1. This representative action is within the Court’s jurisdiction under California
4 Labor Code §§ 201-203, 226, 226.7, 512, 2802, and 2698, *et seq.*, the Private Attorneys General
5 Act (“PAGA”), Business and Professions Code § 17200, *et seq.* (the “UCL”), and the applicable
6 Wage Orders of the California Industrial Welfare Commission (“IWC”).

7 2. This Complaint challenges systemic illegal employment practices resulting in
8 violations of the California Labor Code against individuals who worked for Defendant.

9 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
10 jointly and severally, have acted intentionally and with deliberate indifference and conscious
11 disregard to the rights of all employees by failing to provide off-duty meal and rest periods,
12 reimburse business expenses, and provide and maintain accurate payroll records for its
13 employees.

14 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 have engaged in, among other things a system of willful violations of the California Labor code
16 and the applicable IWC Wage Orders by creating and maintaining policies, practices and
17 customs that knowingly deny employees the above stated rights and benefits.

18 **JURISDICTION AND VENUE**

19 5. The Court has jurisdiction over the violations of the California Labor Code §§
20 201-203, 226, 226.7, 512, 2802, and 2698, *et seq.*, the UCL, and the applicable Wage Orders.

21 6. Venue is proper in Riverside County because Plaintiff worked for Defendants in
22 Murrieta, California.

23 **PARTIES**

24 7. Plaintiff was employed by Defendants as a sales representative from about August
25 8, 2020, until on or about September 2, 2020. Plaintiff worked as an hourly non-exempt
26 employee.

27 8. Plaintiff was and is the victims of the policies, practices, and customs of
28 Defendant complained of in this action in ways that have deprived her of the rights guaranteed

by California Labor Code §§ 201-203, 226, 226.7, 512, 2802, and 2698, *et seq.*, and the UCL.

9. Plaintiff is informed and believes, and based thereon alleges, that Hendrick Co Automotive, LLC is a North Carolina limited liability company that operates locations in the State of California, including in Riverside County, California.

10. Plaintiff is informed and believes, and based thereon alleges, that VKS Murrieta Limited Partnership is a California limited partnership that operates in Riverside County, California.

11. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Does 1 through 50, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to the California Labor Code and the UCL.

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

13. At all times herein mentioned, each defendant participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants, and each of them, were the agents, servants and employees of each of the other defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

14. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To

1 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
2 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
3 Defendants.

4 15. At all times herein mentioned, Defendants, and each of them, were members of,
5 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
6 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

7 16. At all times herein mentioned, the acts and omissions of various Defendants, and
8 each of them, concurred and contributed to the various acts and omissions of each and all of the
9 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
10 herein mentioned, Defendants, and each of them, ratified each and every act or omission
11 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
12 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
13 damages as herein alleged.

14 **CLASS ACTION ALLEGATIONS**

15 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
16 California Code of Civil Procedure § 382, a class of all current and former non-exempt
17 employees who worked for Defendants at any time during the period of time from July __11,
18 2017, through the present, in the State of California (the “Class”). The Class also consists of the
19 following subclasses:

- 20 a. All current and former non-exempt employees of Defendants in the State of
21 California, who worked at any time during the period of July 11, 2017, through
22 the present, and who worked more than five hours in any shift (the “Meal Period
23 Sub-Class”);
- 24 b. All current and former non-exempt employees of Defendants in the State of
25 California, who worked at any time during the period of July 11, 2017, through
26 the present, and who worked 3.5 hours or more in any shift (the “Rest Period Sub-
27 Class”).

28 Additionally, Plaintiff seeks certification of a class of all current and former non-exempt

employees of Defendants in the State of California, who were paid overtime wages during a shift at any time during the period of July 11, 2020, through the present (the “Wage Statement Class”).

18. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants: (a) failed to provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (b) failed to reimburse business expenses in violation of Labor Code § 2802; (c) failed to provide accurate, itemized wage statements in violation of Labor Code § 226(a); and (d) engaged in Unfair Business Practices in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing and able to fully and adequately represent the Class and the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California state and federal courts.

20. Defendants uniformly administered a corporate policy, practice of: (a) failing to provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (b) failing to reimburse business expenses in violation of Labor Code § 2802; (c) failing to provide accurate, itemized wage statements in violation of Labor Code § 226(a); and (d) engaging in Unfair Business Practices in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

21. Plaintiff is informed and believes, and based thereon alleges, that Defendants had a consistent and uniform policy, practice and procedure of willfully failing to comply with Labor Code §§ 201-203, 226, 226.7, 512, and 2802, and the UCL.

22. **Common Question of Law and Fact:** There are predominant common questions

1 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
2 concerning Defendants' policy and practice of: (a) failing to provide off-duty meal and rest
3 breaks in violation of Labor Code §§ 226.7 and 512; (b) failing to reimburse business expenses
4 in violation of Labor Code § 2802; (c) failing to provide accurate, itemized wage statements in
5 violation of Labor Code § 226(a); and (d) engaging in Unfair Business Practices in violation of
6 the UCL, the California Labor Code, and the applicable IWC Wage Orders.

7 23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
8 Class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical
9 manner as the Class Members. Plaintiff regularly worked shifts in excess of five hours without
10 being provided proper meal breaks. Instead, Plaintiff was required to respond to customer
11 inquiries and/or provide other customer service, leading to interrupted, shortened, and/or missed
12 meal breaks. Similarly, Plaintiff regularly worked shifts of 3.5 hours or more without being
13 provided with proper rest breaks. Again, Plaintiff was required to respond to customer inquiries
14 and/or provide other customer service, leading to interrupted, shortened, and/or missed rest
15 breaks. Plaintiff did not receive premium compensation in lieu of these shortened or missed meal
16 and rest breaks. To date, Plaintiff has yet to receive the unpaid meal and rest period premium
17 wages owed to her. As a result, the corresponding wage statements issued to Plaintiff identified
18 inaccurate gross and net wages earned. Moreover, during her employment Plaintiff was regularly
19 required to use a personal cellular phone to conduct work and incur other business-related
20 expenses. Plaintiff was not reimbursed for these costs. Furthermore, Plaintiff was not provided
21 proper and accurate itemized wage statements identifying the correct overtime rate of pay.
22 Rather, the wage statements provided to Plaintiff identified overtime wages on multiple lines,
23 showing amounts paid at a base rate of pay and other line items showing half the base rate of
24 pay. Adding all applicable hours worked results in a total that does not equal the total hours
25 worked shown on the wage statement. As such, Plaintiff is a member of the Class and has
26 suffered the alleged violations of California Labor Code §§ 201-203, 226, 226.7, 512, and 2802,
27 and the applicable IWC Wage Orders.

28 24. The California Labor Code upon which Plaintiff bases these claims are broadly

remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

25. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format a particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Requiring each Class Member to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

26. The prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interest of the other Class members not parties to the adjudications or which would substantially impair or impede the ability of the Class members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

27. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid meal period premium pay, applicable penalties, reasonable attorneys' fees, and costs of suit according to the

mandate of California Labor Code §§ 201-203, 226, 226.7, 512, and 2802, the UCL, and Code of Civil Procedure § 1021.5.

28. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and is representative of, will establish the right of each of the members of the Plaintiff Class to recovery on the causes of action alleged herein.

29. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendants. This action is brought for the benefit of the entire class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 226.7 AND 512

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

31. At all relevant times, Defendants failed in its affirmative obligation to ensure that Plaintiff and Class Members had the opportunity to take and were provided with off-duty meal periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. At all relevant times, Plaintiff and Class Members regularly worked in excess of five (5) hours per day and accordingly had a right to take a 30-minute meal period each day worked in excess of five (5) hours. Plaintiff and Class Members were suffered and permitted to work more than five hours without being provided the opportunity to take their off-duty meal breaks. Defendants required Plaintiff and Class Members to respond to customer inquiries and perform other customer service during meal breaks. As such, Defendants are responsible for paying premium compensation for missed meal periods pursuant to Labor Code § 226.7 and the applicable IWC Wage Order. Defendants, as a matter of corporate policy and procedure, regularly failed to pay such premium compensation for each meal period Plaintiff and the Class Members missed.

32. Such a pattern, practice and uniform administration of corporate policy as

described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order, including interest thereon, penalties, and costs of suit.

33. Plaintiff is informed and believes, and based thereon alleges, that Defendants' willful failure to provide all meal period premium wages due and owing to Plaintiff and Class Members upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class who have separated from employment are entitled to compensation pursuant to Labor Code § 203.

SECOND CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226.7

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

34. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

35. Plaintiff and other members of Class regularly worked shifts of three and one-half hours (3.5) hours or more per day, and accordingly had a right to take a 10-minute rest period each day.

36. Defendants failed in their affirmative obligation to provide all of their employees, including Plaintiff and other members of Class, the opportunity to take rest periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. Plaintiff and other members of Class were suffered and permitted to work through legally required rest breaks and were denied the opportunity to take their rest breaks. Again, Defendants required Plaintiff and Class Members to respond to customer inquiries and perform other customer service during rest breaks. As such, Defendants are responsible for paying premium compensation for missed rest periods pursuant to Labor Code § 226.7.

37. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class

1 identified herein, in a civil action, for the unpaid balance of the unpaid premium compensation
2 pursuant to Labor Code § 226.7, including interest thereon, penalties and costs of suit.

3 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
4 willful failure to provide all rest period premium wages due and owing to Plaintiff and Class
5 Members upon separation from employment results in a continued payment of wages up to thirty
6 (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class
7 who have separated from employment are entitled to compensation pursuant to Labor Code §
8 203.

9 **THIRD CAUSE OF ACTION**

10 **VIOLATION OF LABOR CODE § 2802**

11 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

12 39. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
13 though fully set forth herein.

14 40. This cause of action is brought pursuant to Labor Code § 2802, which provides
15 that employees are entitled to be indemnified for expenses and losses in discharging the duties of
16 their employers. Defendants violated this provision by failing to reimburse employees for all
17 business-related expenses, including without limitation, the costs incurred with use of personal
18 cellular phones. Defendants regularly required Plaintiff and other employees to use their personal
19 cell phones in order to communicate.

20 41. Defendants had a uniform corporate pattern and practice and procedure regarding
21 the above practices in violation of Labor Code § 2802.

22 42. Such a pattern, practice and uniform administration of corporate policy regarding
23 illegal employee compensation as described herein is unlawful and creates an entitlement to
24 recovery by Plaintiff and the Class identified herein in a civil action, for the unpaid balance of
25 the full amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs
26 of suit according to the mandate of California Labor Code section 2802.

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1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 226**

3 **(BY PLAINTIFF AND THE CLASS AND WAGE STATEMENT CLASS AGAINST ALL**
4 **DEFENDANTS)**

5 43. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
6 though fully set forth herein.

7 44. Defendants failed in its affirmative obligation to provide accurate itemized wage
8 statements. Defendants, as a matter of policy and practice, did not provide accurate records in
9 violation of Labor Code § 226(a) by failing to provide accurate payroll records for Plaintiff and
10 the Class.

11 45. The wage statements Defendants issued to Plaintiff and other employees failed to
12 identify accurate overtime rates of pay and total hours worked in violation of Labor Code §
13 226(a)(9) and (a)(2). Rather, the wage statements provided to Plaintiff and other employees
14 identified overtime wages on multiple lines, showing amounts paid at a base rate of pay and
15 other line items showing half the base rate of pay. Then, adding all applicable hours worked
16 results in a total that does not equal the total hours worked shown on the wage statement.
17 Moreover, due to the nonpayment of meal and rest period premiums identified above, the wage
18 statements issued to Plaintiff and other employees identified inaccurate gross and net wages
19 earned in violation of Labor Code section 226(a)(1) and (a)(5). Such a pattern, practice and
20 uniform administration of corporate policy as described herein is unlawful and creates an
21 entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for all
22 damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys' fees,
23 and costs of suit according to the mandate of California Labor Code § 226.

24 **FIFTH CAUSE OF ACTION**

25 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

26 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

27 46. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
28 though fully set forth herein.

47. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing and utilizing the employment practices outlined above, include, to wit, by: (a) failing to provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (b) failing to reimburse business expenses in violation of Labor Code § 2802.

48. Defendants' utilization of such unfair and unlawful business practices constitutes unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

49. Plaintiff seeks, individually and on behalf of other members of the Class similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of herein.

50. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set forth herein above thereby depriving Plaintiff and other members of the Class the minimum working condition standards and conditions due to them under the California laws and the applicable IWC Wage Orders as specifically described therein.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

51. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

52. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from December 16, 2019, through the present, for Defendants' violations of Labor Code §§ 201-203, 226, 226.7, 512, and 2802, arising from Defendant's failure to provide off-duty meal and rest periods, reimburse business expenses, and provide proper payroll records.

53. On or about December 16, 2020, Plaintiff sent written notice to the California

1 Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code
2 §§ 201-203, 226, 226.7, 512, and 2802, pursuant to Labor Code § 2698, *et seq.*, the Private
3 Attorneys General Act (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written
4 notice.

5 54. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
6 applicable civil penalties for Defendants’ violation of Labor Code §§ 201-203, 226, 226.7, 512,
7 and 2802, and the applicable IWC Wage Order for the time period described above, on behalf of
8 herself and other Aggrieved Employees.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
11 this suit is brought against Defendants, jointly and severally, as follows:

- 12 1. For an order certifying the proposed Class;
- 13 2. For an order appointing Plaintiff as the representative of the Class as described
14 herein;
- 15 3. For an order appointing counsel for Plaintiff as Class counsel;
- 16 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
17 California Labor Code §§ 226.7 and 512, and for costs and attorneys’ fees;
- 18 5. Upon the Second Cause of Action, for damages and/or penalties pursuant to
19 California Labor Code § 226.7, and for costs and attorneys’ fees;
- 20 6. Upon the Third Cause of Action, for damages and/or penalties pursuant to
21 California Labor Code § 2802, and for costs and attorneys’ fees;
- 22 7. Upon the Fourth Cause of Action, for damages or penalties pursuant to statute as
23 set forth in California Labor Code § 226, and for costs and attorneys’ fees;
- 24 8. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly
25 affected members of the general public of all funds unlawfully acquired by Defendants by means
26 of any acts or practices declared by this Court to be in violation of Business and Professions
27 Code § 17200, *et seq.*, for the time periods described above;
- 28 9. Upon the Sixth Cause of Action, for civil penalties according to proof pursuant to

1 Labor Code § 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

2 10. On all causes of action, for attorneys' fees and costs as provided by California
3 Labor Code §§ 218.5, 226, 2699 and Code of Civil Procedure § 1021.5; and

4 11. For such other and further relief as the Court may deem just and proper.
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6 DATED: January 5, 2021

DIVERSITY LAW GROUP, P.C.

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8 By: 
9 Larry W. Lee
10 Kristen M. Agnew
11 Nicholas Rosenthal
12 Attorneys for Plaintiff and the Class
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