

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

SHALAMO INCORPORATED, a California Corporation, and DOES 1 through 10, inclusive.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

AMIKA KNIGHTEN, on behalf of herself and all others similarly situated, and on behalf of the general public,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

OCT 28 2022

JAMES M. KIM, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Chen, Deputy

NOTICE! You have been sued. The court may decide against you without you being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Rafael Courthouse

3501 Civic Center Drive, Room 113

San Rafael, CA 94903

CASE NUMBER:
(Número del Caso)

2203533

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Roman Otkupman, Nidah Farishta: 5743 Corsa Ave, Suite 123, Westlake Village, CA 91362; (818)293-5623

DATE:

(Fecha)

OCT 28 2022

Clerk, by

(Secretario)

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

JAMES M. KIM

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

1 Roman Otkupman, CSBN 249423
Roman@OLFLA.com

2 Nidah Farishta, CSBN 312360

Nidah@OLFLA.com

3 **OTKUPMAN LAW FIRM, A LAW CORPORATION**

5743 Corsa Ave., Suite 123

Westlake Village, CA 91362

4 Telephone: (818) 293-5623

5 Facsimile: (888) 850-1310

6 Attorney for Plaintiff,

Amika Knighten, on behalf of herself and all others similarly situated, and on behalf of the
7 general public

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF MARIN**

10 AMIKA KNIGHTEN, on behalf of herself
and all others similarly situated, and on behalf
11 of the general public,

12 Plaintiff,

13 vs.

14 SHALAMO INCORPORATED, a California
Corporation, and DOES 1 through 10,
15 inclusive.

16 Defendants.

CASE NO.

2203533

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. **PENALTIES PURSUANT TO
LABOR CODE SECTION 2699(f)
FOR VIOLATIONS OF LABOR
CODE §§ 226.7, 512, 558, 510, 1194,
1194.2, 226(a),(e), 201-203, 204(a)(b)**

DEMAND FOR JURY TRIAL

17
18 Plaintiff AMIKA KNIGHTEN ("Plaintiff"), on behalf of herself and other "aggrieved
19 employees" complains of Defendants as follows:

20 **I. INTRODUCTION**

21 1. This is a Representation Action, pursuant to Labor Code § 2698, 2699 et seq., on
22 behalf of Plaintiff and certain individuals who are employed by, or were formerly employed by
23 Shalamo Incorporated and any subsidiaries or affiliated companies (hereinafter collectively referred
to as "Defendants") within California.

24 2. For at least one (1) year prior to the filing of this action and continuing to the present
25 (the "liability period"), Plaintiff and Defendant's California employees were routinely unable, and
26 not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-
27 minute meal break for every shift they worked. Specifically, Plaintiff and Defendant's California
28 employees were forced to continue working through their meal and rest breaks in order to assist
Defendant's needs. Because of this, Plaintiff and Defendant's California employees were unable to

1 take their required meal and rest breaks. Moreover, Defendants failed to pay premium wages of one
2 hour's pay for each missed meal and rest break to Plaintiff and Defendant's California employees
3 who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512, and 558,
4 and IWC Order No. 5-2001, Section 12.

5 3. Plaintiff and Defendants' California employees were required to work off the clock
6 for Defendants, such as waiting for staff to relieve her. Defendants did not compensate Plaintiff and
7 Defendants' California employees if these tasks were completed outside of her regular work hours.
8 These excess hours were not recorded on our client's and Defendants' California employees wage
9 statements. Plaintiff and Defendant's California employees should have been compensated for that
10 time, but he was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result,
11 Plaintiff and Defendant's California employees were not paid for all hours worked including all
12 straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor
13 Code § 510 and 1194.

14 4. Plaintiff also claims that Defendant has failed to pay all overtime wages
15 due to non-exempt employees. As a result, employees are not properly compensated for work
16 performance in excess of eight (8) hours in a workday and work performed in excess of forty (40)
17 hours in a workweek at a rate of no less than one and one-half times the regular rate of pay.
18 Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty (40)
19 hours per week and do not receive overtime compensation at a rate of one and one half of their
20 regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were
21 not paid for all hours worked including all straight time wages, and overtime wages. These failures
22 to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

23 5. Defendants failed to issue Plaintiff and Defendant's California employees accurately
24 itemized wage statements. As Defendants failed to compensate Plaintiff and Defendants' California
25 employees with all wages due, as detailed above, their wage statements failed to accurately state all
26 gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of
27 Labor Code § 226(a)(2), and net wages earned, in violation of Labor Code § 226(a)(5), and all
28 applicable hourly rates during the pay period and the corresponding number of hours worked, in
violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all overtime wages
due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and
Defendants' California employees.

6. Our client further alleges that Defendants paid her and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendants' failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

7. Defendant pays Plaintiff and it's California employees on a bi-weekly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

8. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendants operate within the State of California. The unlawful acts alleged herein took place in Novato, California.

II. PARTIES

A. PLAINTIFF

9. Plaintiff AMIKA KNIGHTEN is a resident of Bay Point, California. At all times relevant herein, she was employed by Defendants in Marin County, California. Plaintiff was employed by Defendants as a non-exempt, hourly employee in California, including in and around the city of Novato, County of Marin. During Plaintiff's employment:

- A. Plaintiff did not receive final wages at the time of her termination.
- B. Plaintiff was required to work without meal and rest periods, nor compensation in lieu thereof, as required by the Labor Code and relevant Wage Orders.
- C. Plaintiff was required to work either in excess of eight hours per workday or in excess of forty hours per workweek without receiving compensation at a rate of one and one half the regular rate of pay.
- D. Plaintiff was forced to receive inaccurately itemized and deficient wage statements, in violation of Labor Code § 226(a).
- E. Plaintiff did not receive her compensation in accordance with Labor Code § 204 in that Defendants failed to issues wages to its employees within seven (7) calendar days after the pay period ended.

1 F. Plaintiff was not paid in a timely manner pertaining to the waiting time penalties in
2 accordance with Labor Code §§ 201-203.

3 **B. DEFENDANTS**

4 10. Defendant SHALAMO INCORPORATED, is a California Corporation doing
5 business in Novato, California. It operates within the State of California. Defendant employed
6 Plaintiff and similarly situated employees within California. The violations alleged herein arose in
7 Novato, California.

8 11. As used herein, the term "AGGRIEVED EMPLOYEES," and "DEFENDANTS'
9 CALIFORNIA EMPLOYEES," shall mean Defendant SHALAMO INCORPORATED'S non-
10 exempt employees.

11 12. The true names and capacities, whether individual, corporate, associate, or otherwise,
12 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
13 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
14 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
15 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
16 seek leave of court to amend this Complaint to reflect the true names and capacities of the
17 Defendants designated hereinafter as DOES when such identities become known.

18 13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
19 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
20 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
21 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
22 employer and/or joint employer of Plaintiff and all other aggrieved employees.

23 **FACTUAL ALLEGATIONS**

24 14. Plaintiff and Defendant's California employees were routinely unable, and not
25 authorized to take their ten (10) minute rest periods and were also unable to take an
26 uninterrupted thirty (30) minute meal break for every shift they worked. Specifically, Plaintiff
27 and Defendant's California employees were forced to continue working through their meal and
28 rest breaks in order to assist Defendant's needs. Because of this, Plaintiff and Defendant's
California employees were unable to take their required meal and rest breaks. Moreover,
Defendants failed to pay premium wages of one hour's pay for each missed meal and rest break
to Plaintiff and Defendants' California employees who were denied timely meal and rest

1 breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section
2 12.

3 15. Plaintiff and Defendants' California employees were required to work off the
4 clock for Defendants, such as waiting for staff to relieve her. Defendants did not compensate
5 Plaintiff and Defendants' California employees if these tasks were completed outside of her
6 regular work hours. These excess hours were not recorded on our client's and Defendants'
7 California employees wage statements. Plaintiff and Defendant's California employees should
8 have been compensated for that time, but he was not in violation of Labor Code Sections 510,
9 1194, and 1194.2. As a result, Plaintiff and Defendant's California employees were not paid for
10 all hours worked including all straight time wages, and overtime wages. These failures to pay
11 wages constitute violations of Labor Code § 510 and 1194.

12 16. Plaintiff and all other California employees of Defendants also claims that
13 Defendants have failed to pay all overtime wages due to non-exempt employees. As a result,
14 employees are not properly compensated for work performance in excess of eight (8) hours in a
15 workday and work performed in excess of forty (40) hours in a workweek at a rate of no less
16 than one and one-half times the regular rate of pay. Employees of Defendants regularly work in
17 excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive
18 overtime compensation at a rate of one and one half of their regular rate. Plaintiff and
19 Defendant's California employees were forced to work overtime and were not paid for all hours
20 worked including all straight time wages, and overtime wages. These failures to pay all
21 overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

22 17. Defendants failed to issue Plaintiff and Defendant's California employees
23 accurately itemized wage statements. As Defendants failed to compensate Plaintiff and
24 Defendants' California employees with all wages due, as detailed above, their wage statements
25 failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total
26 hours worked, in violation of Labor Code § 226(a)(2), and net wages earned, in violation of
27 Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the
28 corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of
Defendants' failure to pay all overtime wages due. These violations also violate Labor Code §§
226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

18. Plaintiff further alleges that Defendants paid her and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendant's failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

19. Defendant pays Plaintiff and it's California employees on a bi-weekly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201-203, 204(a)(b)

20. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

21. As a result of the acts alleged herein, Plaintiff seeks penalties under Labor Code § 2698 *et seq.* because of Defendants' violations of Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201-203, 204(a)(b), 2802.

22. For each such violation, Plaintiff and all aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

- a. With respect to the violation of Labor Code § 2699(f) for violations of Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201-203, 204(a)(b), 2802, \$100 for the initial violation per employee per pay period and \$200 for each subsequent violation per employee per pay period.

23. These penalties will be allocated 75% to the Labor Workforce Development Agency, and 25% to the affected employees.

24. On November 12, 2021, Plaintiff sent a letter, by certified mail, return receipt requested, to the LWDA and Defendants setting forth the facts and theories of the violations alleged

1 against Defendants, as prescribed by Labor Code § 2698 *et seq.* (**Exhibit “A”**). Pursuant to Labor
2 Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)
3 calendar days of November 12, 2021. Plaintiff may therefore commence this action to seek penalties
4 pursuant to Labor Code § 2698 *et seq.*

5 25. Wherefore, Plaintiff and the aggrieved employees he seeks to represent request relief
6 as described herein.

7 **ALLEGATIONS AS TO FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION**
8 **IN LIEU THEREOF (LABOR CODE §§ 226.7, 512, 558)**

9 26. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set
10 forth herein.

11 27. Plaintiff and all other aggrieved employees are entitled to one hour of pay for each
12 day that Defendants failed to properly provide one or more meal or rest periods as set forth in the
13 IWC Wage Orders and Labor Code §§ 226.7, 512, and 558.

14 28. Defendants have failed to provide Plaintiff and all other aggrieved employees one or
15 more meal or rest periods during their employment. Defendants have failed to compensate Plaintiff
16 and all other aggrieved employees at the rate of one hour or pay at his or her regular rate of pay for
17 each day on which one or more meal or rest periods were not provided.

18 29. Plaintiff and Defendant’s California employees were routinely unable,
19 and not authorized to take their ten (10) minute rest periods and were also unable to take an
20 uninterrupted thirty (30) minute meal break for every shift they worked. Specifically, Plaintiff and
21 Defendant’s California employees were forced to continue working through their meal and rest
22 breaks in order to assist Defendant’s needs. Because of this, Plaintiff and Defendant’s California
23 employees were unable to take their required meal and rest breaks. Moreover, Defendants failed to
24 pay premium wages of one hour’s pay for each missed meal and rest break to Plaintiff and
25 Defendants’ California employees who were denied timely meal and rest breaks, in violation of
26 Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

27 30. Pursuant to Labor Code §§ 226.7 and 512, Plaintiff seeks the payment of all meal
28 and rest period compensations, which she was owed since she commenced working for Defendants,
according to proof.

31. Additionally, Plaintiff is entitled to, and seeks, attorney’s fees and costs, and
prejudgment interest.

**ALLEGATIONS AS TO FAILURE TO PAY ALL WAGES
IN VIOLATION OF (LABOR CODE §§ 510, 1194, 1194.2)**

32. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

33. Plaintiff and Defendants' California employees were required to work off the clock for Defendants, such as waiting for staff to relieve her. Defendants did not compensate Plaintiff and Defendants' California employees if these tasks were completed outside of her regular work hours. These excess hours were not recorded on our client's and Defendants' California employees wage statements. Plaintiff and Defendant's California employees should have been compensated for that time, but he was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result, Plaintiff and Defendant's California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

34. Plaintiff and all other California employees of Defendants also claims that Defendants have failed to pay all overtime wages due to non-exempt employees. As a result, employees are not properly compensated for work performance in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. Employees of Defendants regularly work in excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

35. As a result of the unlawful acts of Defendants in willfully failing to pay all alleges, Plaintiff and Defendant's California employees have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs pursuant to Labor Code § 1194 and liquidated damages pursuant to Labor Code § 1194.2.

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**ALLEGATIONS AS TO KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE STATEMENT PROVISIONS**

(LABOR CODE § 226(a), (e))

36. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

37. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must accurately set forth, among other things, the total gross and net wages earned, the total hours worked, and the hourly rates in effect, for its employees. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

38. Defendant failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendant failed to compensate Plaintiff and other non-exempt California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendant's failure to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendant's California employees.

39. The wage statements provided to Plaintiff and all other aggrieved employees fail to accurately itemize in wage statements total gross and net wages earned, and the total hours worked, and all hourly rates in effect, for its employees. Defendants' violations of Labor Code § 226(a) are knowing and intentional, and Plaintiff has suffered injury as a result of the receipt of defective wage statements, thereby entitling her to penalties pursuant to Labor Code § 226(e).

**ALLEGATIONS AS TO FAILURE TO PAY WAGES DUE AT THE TIME OF
DISCHARGE IN VIOLATION OF LABOR CODE §§ 201-202, RESULTING IN
SECTION 203 WAGES AND PENALTIES (WAITING TIME PENALTIES)**

40. Plaintiff hereby incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

41. At all times material herein, the California Labor Code Sections 201, 202, and 203 were in effect and binding on Defendants.

1 42. California Labor Code § 202 requires employers to pay employees all wages due
2 within seventy-two (72) hours of resignation. California Labor Code § 201 states in pertinent
3 part that “if an employer discharges an employee, the wages earned and unpaid at the time of
4 discharge are due and payable immediately.” California Labor Code § 203 provides that if an
5 employer willfully fails to timely pay such wages the employer must, as penalty, continue to
6 pay the subject employee’s wages until the back wages are paid in full or an action is
commenced. The penalty cannot exceed 30 days of wages.

7 43. Plaintiff was entitled to compensation for unpaid wages, but to date has not
8 received such compensation. Specifically, Defendants failed to pay Plaintiff all wages due to
9 Plaintiff at the time of her termination. Thus, since Defendants failed to promptly pay Plaintiff
10 all wages due to Plaintiff at the time of her termination, Defendants violated Section 201 of the
11 Labor Code and Plaintiff is therefore entitled to wages and penalties pursuant to Labor Code
Section 203.

12 44. More than 30 days have passed since Plaintiff’s employment ended with
13 Defendants.

14 45. As a consequence of Defendants’ willful conduct in not paying wages owed to
15 Plaintiff, Plaintiff is entitled to 30 days of wages as a penalty pursuant to Labor Code § 203 for
16 Defendants’ failure to timely pay legal wages.

17 **ALLEGATIONS AS TO FAILURE TO TIMELY PAY EMPLOYEES**
18 **IN VIOLATION OF LABOR CODE § 204(a)(b)**

19 46. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set
20 forth herein.

21 47. At all times relevant herein, Labor Code § 204 was in full force and effect and
22 binding on Defendants.

23 48. Wages must be paid according to a regularly set schedule. (Labor Code § 204). All
24 earned wages must be paid at least twice a month, on days designated in advance by the employer.
25 Work performed between the 1st and the 15th days, inclusive, of any calendar month must be paid
26 between the 16th and 26th day of the same month. Work performed between the 16th and the last
27 day of the month must be paid between the 1st and 10th day of the following month. (Labor Code §
28 204). Weekly or bi-weekly (every two weeks) payroll must be paid within seven (7) days of the end
of the pay period in which the wages were earned (Labor Code §§ 204(a), 204(b)).

49. Defendants pay Plaintiff and its California employees on a bi-weekly basis and have failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendants' California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

50. Defendants have failed to comply with the above-section because they waited longer than seven days from the close of the pay period to pay its bi-weekly paid employees.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For penalties pursuant to Labor Code § 203 for Plaintiff and all other aggrieved employees who are no longer employed by Defendants, equal to their daily wage multiplied by thirty (30) days;

2. For penalties pursuant to Labor Code § 226(e) for Plaintiff and all other aggrieved employees;

3. For penalties pursuant to Labor Code § 226.7 for Plaintiff and all other aggrieved employees;

4. For penalties pursuant to Labor Code § 1194.2 for Plaintiff and all other aggrieved employees;

5. For penalties pursuant to Labor Code § 204(b) for Plaintiff and all other aggrieved employees;

6. For penalties and other relief pursuant to Labor Code § 2698 et seq. for Plaintiff and all other aggrieved employees;

7. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1);

8. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1);

9. An award of prejudgment and post-judgment interest;

10. An award providing for payment of costs of suit; and

11. Such other and further relief as this Court may deem just and proper.

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1 Dated: October 27, 2022

OTKUPMAN LAW FIRM,
A Law Corporation

2
3
4 By: 

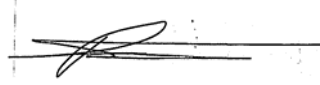
5 ROMAN OTKUPMAN
6 Attorneys for Plaintiff

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

9 Dated: October 27, 2022

OTKUPMAN LAW FIRM,
A Law Corporation

10
11
12 By: 

13 ROMAN OTKUPMAN
14 Attorneys for Plaintiff

EXHIBIT A

OTKUPMAN LAW FIRM, A LAW CORPORATION

5743 Corsa Ave, Suite 123
Westlake Village, CA 91362
Tel.: 818-293-5623
Fax: 888-850-1310

November 12, 2021

VIA ELECTRONIC FILING

Labor & Workforce Development Agency

VIA CERTIFIED MAIL

Shalamo Incorporated
9758 Hopi Lane
Gilroy, CA 95020
Defendant certified mail # 7020 1290 0000 8115 3504

VIA CERTIFIED MAIL

Agent for Service of Process
Priscilla Kih Kimbo
9758 Hopi Lane
Gilroy, CA 95020
Agent certified mail # 7020 1290 0000 8115 3115

Re: ***Amika Kinghten v. Shalamo Incorporated – Labor Code Violations of Shalamo Incorporated – Compliance Letter of California Labor Code § 2698 – Private Attorneys General Act***

Dear Sir or Madam:

This office represents Amika Knighten (“Plaintiff”), a former California employee of Shalamo Incorporated (“Defendant”). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client works for Defendant in Northern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its California employees.

Plaintiff began working for Defendants on or about July 4, 2021. While working for Defendant as a Direct Support Profession, Plaintiff was twenty-one dollars (\$21.00) per hour.

Plaintiff and Defendant’s California employees were routinely unable, and not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant’s California employees were

forced to continue working through their meal and rest breaks in order to assist Defendant's needs. Because of this, Plaintiff and Defendant's California employees were unable to take their required meal and rest breaks. Moreover, Defendants failed to pay premium wages of one hour's pay for each missed meal and rest break to Plaintiff and Defendant's California employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

Plaintiff and Defendants' California employees were required to work off the clock for Defendants, such as waiting for staff to relieve her. Defendants did not compensate Plaintiff and Defendants' California employees if these tasks were completed outside of his regular work hours. These excess hours were not recorded on our client's and Defendants' California employees wage statements. Plaintiff and Defendant's California employees should have been compensated for that time, but he was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result, Plaintiff and Defendant's California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

Plaintiff also claims that Defendant has failed to pay all overtime wages due to non-exempt employees. As a result, employees are not properly compensated for work performance in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

Defendants failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendants failed to compensate Plaintiff and Defendants' California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), and net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

Our client further alleges that Defendants paid him and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendants' failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

Labor & Workforce Development Agency

Shalamo Incorporated

November 12, 2021

Page 3

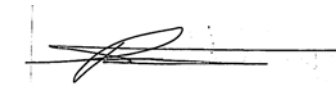
Defendant pays Plaintiff and it's California employees on a bi-weekly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

We invite Defendants or its attorney(s) to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Our office awaits your response.

Very truly yours,

OTKUPMAN LAW FIRM

A handwritten signature in dark ink, appearing to be 'Roman Otkupman', is written over a horizontal line.

ROMAN OTKUPMAN

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Roman Otkupman, Esq. Bar No. 249423; Nidah Farishta, Esq. Bar No. 312360 Otkupman Law Firm, ALC 5743 Corsa Ave, Suite 123 Westlake Village, CA 91362 TELEPHONE NO.: (818) 293-5623 FAX NO.: (888) 850-1310 ATTORNEY FOR (Name): Plaintiff Amika Knighten		RECEIVED OCT 28 2022 MARIN COUNTY SUPERIOR COURT
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Marin STREET ADDRESS: 3501 Civic Center Drive, Room 113 MAILING ADDRESS: CITY AND ZIP CODE: San Rafael, CA 94903 BRANCH NAME: San Rafael Courthouse		
CASE NAME: Amika Knighten v. Shalamo Incorporated		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000)	☐ Limited (Amount demanded is \$25,000 or less)	
Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: 2203533 JUDGE: STEPHEN P. FRECCERO DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:
- | | | |
|---|--|--|
| Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)
Employment
☐ Wrongful termination (36)
☒ Other employment (15) | Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)
Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)
Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)
Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
☐ Enforcement of judgment (20)
Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint (not specified above) (42)
Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43) |
|---|--|--|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☐ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): One (1)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 27, 2022

Roman Otkupman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

FILED

OCT 28 2022

MARIN COUNTY SUPERIOR COURT

P.O. Box 4988
San Rafael, CA 94913-4988

JAMES M. KIM, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Chen, Deputy

2203533

PLAINTIFF:

Knigh ten

CASE NO.

2203533

vs.

DEFENDANT:

Shalomo Incorporated

NOTICE OF CASE
MANAGEMENT CONFERENCE
(CIVIL)

(Pursuant to Government Code Section 68600 et seq.)

Pursuant to Local Rule 1.3, the plaintiff must serve a copy of this Notice of Case Management Conference, a blank Case Management Statement (Judicial Council Form CM-110), a blank Notice of Settlement of Entire Case (Judicial Council Form CM-200), and an Alternative Dispute Resolution (ADR) Informational Notice (CV006) together with the complaint on all parties.

STEPHEN P. FRECCERO

This case is assigned for all purposes to Judge _____ in Courtroom A.

1. The parties/counsel to this action shall comply with the filing and service deadlines in Local Rule 1.5 and California Rule of Court 3.110, or appear at the Order to Show Cause hearing on the dates set forth below:

Failure to File Proof of Service

____/____/____

8:30 / 9:00 A.M.

Failure to Answer

____/____/____

8:30 / 9:00 A.M.

2. Parties must appear for Case Management Conference on

3 / 17 / 23

8:30 / 9:00 A.M.

3. The parties must be familiar with the case and be fully prepared to discuss the suitability of the case for binding or non-binding arbitration, mediation, or neutral case evaluation. **Counsel must discuss ADR options with their clients prior to attending the Case Management Conference** and should be prepared to discuss with the court their authority to participate in ADR.

4. Case Management Conference Statements must be filed with the court and served on all parties at least 15 calendar days before the Case Management Conference. **(Late filing may result in the issuance of sanctions.)**

Distribution: Original - Court File; Canary - Plaintiff

CV008

NOTICE OF CASE MANAGEMENT CONFERENCE (CIVIL)
(Pursuant to Government Code § 68600 et seq.)

Rev. 7/15/15

MARIN COUNTY SUPERIOR COURT

3501 Civic Center Drive
P.O. Box 4988
San Rafael, CA 94913-4988
(415) 444-7040



ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATIONAL NOTICE (California Rule of Court 3.221)

The plaintiff **must** serve a copy of this notice with the complaint on all parties to this case.

Alternative Dispute Resolution (ADR) is a way of solving legal disputes without going to trial. Using ADR may have a variety of benefits, depending on the type of ADR process used and the circumstances of the particular case.

ADVANTAGES OF ADR

Save Time

A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.

Save Money

When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, experts' fees, and other litigation expenses.

Increase Control Over the Process and the Outcome

In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

Preserve Relationships

ADR can be a less adversarial way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.

Increase Satisfaction

In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.

DISADVANTAGES OF ADR

If the case is resolved using ADR, the parties forgo their right to a public trial and they do not receive a decision by a judge or jury. If the case is not resolved using ADR and it proceeds to trial, the overall costs of the case may increase.

TYPES OF ADR

Mediation

In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Settlement Conferences

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

Arbitration

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. *Nonbinding* arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Neutral Evaluation

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

LOCAL ADR PROGRAMS

For a Directory of Mediators and Arbitrators or information about the Modest Means Mediation Program, contact the Marin County Bar Association (MCBA) by calling (415) 499-1314 or emailing info@marinbar.org. Additional information is also available on the MCBA website: www.marinbar.org.

STIPULATION TO USE ADR

If all parties in the action agree to participate in ADR, a *Stipulation to Use Alternative Dispute Resolution Process (CV002)* may be filed with the court. This form is available at www.marincourt.org or in the Clerk's Office.

Please note, **you are required to complete and submit the Notice of Settlement of Entire Case (Judicial Council Form CM-200) within 10 days of the resolution of your case.**