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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANGEL ARMENTA and JAKKOB
ROMERO, individually, on behalf of all
others similarly situated, and on behalf of
the State of California and other
aggrieved persons,

Plaintiffs,

v.

BLUE BEACON INTERNATIONAL,
INCORPORATED, a corporation; BLUE
BEACON U.S.A., L.P., a limited
partnership; BLUE BEACON U.S.A. II,
L.P., a limited partnership; and DOES I
through 10, inclusive,

Defendants.

Case No.: CIVSB2206415

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT:**

1. Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
2. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198);
3. Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512);
4. Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7);
5. Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203);
6. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
7. Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802); and
8. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);
9. Violation of the Fair Labor Standards Act (29 U.S.C. sections 201, *et seq.*);
10. Violation of the Private Attorneys General Act (Cal. Lab. Code § 2698, *et seq.*);
11. Violation of the Federal Credit Reporting Act (15 U.S.C. sections 1671, *et seq.*); and
12. Violation of the Investigative Consumer Reporting Agency Act (Cal. Civil Code §§ 1786.10-1786.40).

DEMAND FOR JURY TRIAL

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1 Plaintiffs ANGEL ARMENTA and JAKKOB ROMERO ("Plaintiffs"), based upon facts
2 that either have evidentiary support or are likely to have evidentiary support after a reasonable
3 opportunity for further investigation and discovery, allege as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiffs bring this action against Defendant BLUE BEACON INTERNATIONAL,
6 INCORPORATED, Defendant BLUE BEACON U.S.A., L.P., Defendant BLUE BEACON U.S.A.
7 II, L.P., and DOES 1 through 10 (hereinafter collectively referred to as "Defendants") for
8 California Labor Code violations, including the Private Attorneys General Act of 2004, and unfair
9 business practices stemming from Defendants' failure to pay for all hours worked (minimum,
10 straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit
11 rest periods, failure to timely pay final wages, failure to furnish accurate wage statements, and
12 failure to indemnify employees for expenditures. Plaintiffs further bring this action against
13 Defendants for violation of the Fair Labor Standards Act ("FLSA"), Federal Credit Reporting Act
14 ("FCRA"), and Investigative Consumer Reporting Agency Act ("ICRRA").

15 2. Plaintiffs bring the First through Eighth Causes of Action individually and as a
16 class action on behalf of themselves and certain current and former employees of Defendants
17 (hereinafter collectively referred to as the "Class" or "Class Members," and defined more fully
18 below). The Class consists of Plaintiffs and all other persons who have been employed by any
19 Defendant in California as an hourly-paid or non-exempt employee during the statute of
20 limitations period applicable to the claims pleaded here.

21 3. Plaintiffs bring Ninth Cause of Action on behalf of themselves, and all similarly
22 situated individuals employed by Defendants as a non-exempt employee in the United States at
23 any time within three years prior to the filing of initial Complaint ("FLSA Class").

24 4. Plaintiffs bring the Tenth Cause of Action on behalf of Plaintiffs and Aggrieved
25 Employees, defined as: "all current and former non-exempt employees employed by Defendants in
26 California at any time from one year plus 65 days from filing the initial Complaint through the
27 present ("PAGA Period"). Plaintiffs are "aggrieved employees," as that term is defined under Labor
28 Code section 2699(c), as they were employed by Defendants during the applicable statutory

1 limitations period and suffered one or more of the Labor Code violations set forth herein.
2 Accordingly, Plaintiffs seek to recover on behalf of themselves, the State of California, and all other
3 Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorneys' fees and
4 costs. Plaintiffs have standing to bring a PAGA cause of action on behalf of the State and all
5 Aggrieved Employees, as they were jointly employed by Defendants and are thereby affected by
6 one or more of the alleged violations. (*See Huff v. Securitas Security Services USA, Inc.* (2018) 23
7 Cal.App.5th 745, 757.) A PAGA plaintiff has authority to seek penalties for all known violations
8 committed by the employer - regardless of whether Plaintiffs experienced all violations personally.
9 (*Id.* at 760-761.)

10 5. Plaintiffs bring Eleventh Cause of Action on behalf of themselves, and all similarly
11 situated "consumers" within the meaning of section 1681a(c) of the FCRA, because they are
12 "individuals."

13 6. Plaintiffs bring Twelfth Cause of Action on behalf of themselves, and all similarly
14 situated "consumers" within the meaning of section 1786.2(b) of the ICRAA, because they are
15 "individuals."

16 7. Plaintiffs, through their counsel, on March 28, 2022 (Plaintiff ARMENTA) and April
17 14, 2022 (Plaintiff ROMERO), gave written notice by online filing with the California Labor and
18 Workforce Development Agency ("LWDA") informing it that Defendants failed to comply with
19 California's labor laws with regard to the allegations alleged in this Complaint ("PAGA Notices").
20 The PAGA Notices outlined Plaintiffs' claims for violations of the California Labor Code and the
21 applicable wage orders on behalf of themselves, the State of California and other Aggrieved
22 Employees. The LWDA assigned Plaintiffs the following case numbers: LWDA-CM-875832-22
23 (Plaintiff ARMENTA) and LWDA-CM-878732-22 (Plaintiff ROMERO). Plaintiffs, through their
24 counsel, also sent the PAGA Notices to Defendants via certified mail, on March 28, 2022 (Plaintiff
25 ARMENTA) and April 14, 2022 (Plaintiff ROMERO).

26 8. The LWDA did not provide notice of its intention to investigate Defendants'
27 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of
28 the alleged violations were curable, Defendants failed to cure within the time allotted by PAGA.

1 Plaintiffs have exhausted the administrative remedies as required by Labor Code section 2699.3.
2 Consequently, Plaintiffs' right to file the instant lawsuit has duly accrued.

3 9. Plaintiffs seek to recover the PAGA civil penalties through a representative action
4 permitted by PAGA and the California Supreme Court in *Arias v. Super. Ct.* (2009) 46 Cal.4th 969.
5 Therefore, class certification of the PAGA claims is not required.

6 10. Defendants own/owned and operate/operated an industry, business, and
7 establishment within the State of California, including San Bernardino County. As such, and
8 based upon all the facts and circumstances incident to Defendants' business in California,
9 Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial
10 Welfare Commission ("IWC"), and the California Business & Professions Code.

11 11. Despite these requirements, throughout the statutory period, Defendants maintained
12 a systematic, company-wide policy and practice of:

- 13 (a) Failing to pay employees for all hours worked, including all minimum,
14 straight time, and overtime wages in compliance with the California Labor
15 Code and IWC Wage Orders;
- 16 (b) Failing to provide employees with timely and duty-free meal periods in
17 compliance with the California Labor Code and IWC Wage Orders, failing
18 to maintain accurate records of all meal periods taken or missed, and failing
19 to pay an additional hour's pay for each workday a meal period violation
20 occurred;
- 21 (c) Failing to authorize and permit employees to take timely and duty-free rest
22 periods in compliance with the California Labor Code and IWC Wage
23 Orders, and failing to pay an additional hour's pay for each workday a rest
24 period violation occurred;
- 25 (d) Willfully failing to pay employees all expenditures, minimum wages,
26 straight time wages, overtime wages, meal period premium wages, and rest
27 period premium wages due within the time period specified by California
28 law when employment terminates;

- (e) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders;
- (f) Failing to indemnify employees for expenditures incurred in direct discharge of duties of employment; and,
- (g) Failing to comply with the disclosure requirements in compliance with FCRA and ICRAA;

12. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

13. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employers of Plaintiffs, the Class, and the Aggrieved Employees. Further, Defendants are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior."

THE PARTIES

A. Plaintiff

14. Plaintiffs ARMENTA and ROMERO are residents of San Bernardino County, California. Plaintiff ARMENTA worked for Defendants in San Bernardino County, California as an hourly-paid, non-exempt employee from approximately November 2019 to approximately February 2022. Plaintiff ROMERO was employed by Defendants from in or around September 2020 through on or around April 25, 2021 as a bay attendant, bay leader, and/or similar title, at Defendants' facility located in Barstow, California.

15. Plaintiffs reserve the right to seek leave to amend this complaint to add new Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

1 **B. Defendants**

2 16. Plaintiffs are informed and believe, and based upon that information and belief
3 allege, that Defendants BLUE BEACON INTERNATIONAL, INCORPORATED, BLUE
4 BEACON U.S.A., L.P., and BLUE BEACON U.S.A. II, L.P. are, and at all times herein
5 mentioned, were:

- 6 (a) Business entities qualified to do business and actually conducting business
7 in numerous counties throughout the State of California, including in San
8 Bernardino County; and,
9 (b) The former employers of Plaintiffs and the current and/or former employers
10 of the putative Class and Aggrieved Employees because Defendants BLUE
11 BEACON INTERNATIONAL, INCORPORATED, BLUE BEACON
12 U.S.A., L.P., and BLUE BEACON U.S.A. II, L.P. suffered and permitted
13 Plaintiffs, the Class, and the Aggrieved Employees to work, and/or
14 controlled their wages, hours, or working conditions.

15 17. Plaintiffs do not know the true names or capacities of the persons or entities sued
16 herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each
17 of the Doe Defendants was in some manner legally responsible for the damages suffered by
18 Plaintiffs, the Class, and the Aggrieved Employees as alleged herein. Plaintiffs will amend this
19 complaint to set forth the true names and capacities of these Defendants when they have been
20 ascertained, together with appropriate charging allegations, as may be necessary.

21 18. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
22 each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
23 injured a significant number of the Plaintiffs, the Class, and the Aggrieved Employees in the State
24 of California.

25 19. Plaintiffs are informed and believe and thereon allege that at all relevant times each
26 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and the
27 other employees described in the class definitions below, and exercised control over their wages,
28 hours, and working conditions. Plaintiffs are informed and believe and thereon allege that, at all

1 relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director,
2 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
3 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
4 the other Defendants in a joint enterprise for profit, and bore such other relationships to some or
5 all of the other Defendants so as to be liable for their conduct with respect to the matters alleged
6 below. Plaintiffs are informed and believe and thereon allege that each Defendant acted pursuant
7 to and within the scope of the relationships alleged above, that each Defendant knew or should
8 have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the
9 conduct of all other Defendants.

10 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

11 20. Plaintiffs worked for Defendants in San Bernardino County, California as hourly-
12 paid, non-exempt employees. During Plaintiffs' employment for Defendants, Defendants paid
13 Plaintiffs hourly wages and classified them as non-exempt from overtime. Defendants typically
14 scheduled Plaintiffs to work at least five days in a workweek and at least eight hours per day, but
15 Plaintiffs regularly worked more than eight hours in a workday and more than forty (40) hours in a
16 workweek.

17 21. Throughout Plaintiffs' employment, Defendants failed to pay for all hours worked
18 (including minimum, straight time, and overtime wages), failed to provide Plaintiffs with legally
19 compliant meal periods, failed to authorize and permit Plaintiffs to take rest periods, failed to
20 timely pay all final wages to Plaintiffs when Defendants terminated their employment, failed to
21 furnish accurate wage statements to Plaintiffs, failed to indemnify Plaintiffs for expenditures, and
22 failed to provide the required disclosures before conducting background checks. As discussed
23 below, Plaintiffs' experience working for Defendants was typical and illustrative.

24 22. Throughout the statutory period, Defendants wrongfully failed to include non-
25 discretionary bonuses, commissions, incentive pay, production pay, performance pay, and/or shift
26 differentials in the calculation of Plaintiffs', the other Class Members', and the Aggrieved
27 Employees' regular rate of pay used to calculate their overtime rate for the payment of overtime
28 wages. Plaintiffs, the Class, and the Aggrieved Employees earned non-discretionary bonuses,

1 commissions, incentive pay, production pay, performance pay, and/or shift differentials and
2 overtime wages in the same pay period where they worked overtime hours. Accordingly,
3 Defendants failed to compensate Plaintiffs, the Class, and the Aggrieved Employees for all
4 overtime compensation they were owed.

5 23. Throughout the statutory period, Defendants maintained a policy and practice of not
6 paying Plaintiffs, the Class, and the Aggrieved Employees for all hours worked, including
7 minimum, straight time, and overtime wages. Defendants required Plaintiffs, the Class, and the
8 Aggrieved Employees to work “off-the-clock”, uncompensated, by, for example, requiring
9 Plaintiffs, the Class, and the Aggrieved Employees to perform work prior to clocking in for the
10 workday, during unpaid meal periods, and after clocking out for the workday. Some of this
11 unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked,
12 Defendants also failed to maintain accurate records of the hours Plaintiffs, the Class, and the
13 Aggrieved Employees worked.

14 24. Throughout the statutory period, Defendants wrongfully failed to provide Plaintiffs,
15 the Class, and the Aggrieved Employees with legally compliant meal periods. Defendants
16 regularly, but not always, required Plaintiffs, the Class, and the Aggrieved Employees to work in
17 excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free
18 meal period for every five hours of work, or without compensating Plaintiffs, the Class, and the
19 Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work
20 or tenth hour of work. Instead, Defendants continued to assert control over Plaintiffs, the Class,
21 and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work
22 tasks which could not be completed without working in lieu of taking mandatory meal periods, or
23 by denying Plaintiffs, the Class, and the Aggrieved Employees permission to take a meal period.
24 Defendants also failed to permit Plaintiffs to take a second meal period when Plaintiffs worked at
25 least ten hours of work in a workday. Accordingly, Defendants’ policy and practice was not to
26 provide meal periods to Plaintiffs, the Class, and the Aggrieved Employees in compliance with
27 California law.

28 25. Throughout the statutory period, Defendants have wrongfully failed to authorize

1 and permit Plaintiffs, the Class, and the Aggrieved Employees to take legally compliant rest
2 periods. Defendants regularly required Plaintiffs, the Class, and the Aggrieved Employees to
3 work in excess of four consecutive hours a day without Defendants authorizing and permitting
4 them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or
5 major fraction of four hours), or without compensating Plaintiffs, the Class, and the Aggrieved
6 Employees for rest periods that were not authorized or permitted. Instead, Defendants continued
7 to assert control over Plaintiffs, the Class, and the Aggrieved Employees by requiring, pressuring,
8 or encouraging them to perform work tasks which could not be completed without working in lieu
9 of taking mandatory rest periods, or by denying Plaintiffs, the Class, and the Aggrieved
10 Employees permission to take a rest period. Accordingly, Defendants' policy and practice was to
11 not authorize and permit Plaintiffs, the Class, and the Aggrieved Employees to take rest periods in
12 compliance with California law.

13 26. Throughout the statutory period, Defendants willfully failed and refused to timely
14 pay Plaintiffs, the Class, and the Aggrieved Employees all final wages due at their termination of
15 employment. In addition, Plaintiffs' final paychecks did not include payment for all expenditures,
16 minimum wages, straight time wages, overtime wages, meal period premium wages, and rest
17 period premium wages owed to them by Defendants at the conclusion of their employment. On
18 information and belief, Defendants' failure to timely pay Plaintiffs' final wages when their
19 employment terminated was not a single, isolated incident, but was instead consistent with
20 Defendants' policy and practice that applied to Plaintiffs, the Class, and the Aggrieved
21 Employees.

22 27. Throughout the statutory period, Defendants failed to furnish Plaintiffs, the Class,
23 and the Aggrieved Employees with accurate, itemized wage statements showing all applicable
24 hourly rates, all overtime hourly rates, and all gross and net wages earned (including correct hours
25 worked, correct wages for meal periods that were not provided in accordance with California law,
26 and correct wages for rest periods that were not authorized and permitted to take in accordance
27 with California law). As a result of these violations of California Labor Code § 226(a), the
28 Plaintiffs, the Class, and the Aggrieved Employees suffered injury because, among other things:

- (a) the violations led them to believe that they were not entitled to be paid minimum, straight time, overtime, meal period premium, and rest period premium wages, even though they were entitled;
- (b) the violations led them to believe that they had been paid the minimum, straight time, overtime, meal period premium, and rest period premium wages, even though they had not been;
- (c) the violations led them to believe they were not entitled to be paid minimum, straight time, overtime, meal period premium, and rest period premium wages at the correct California rate even though they were entitled;
- (d) the violations led them to believe they had been paid minimum, straight time, overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been;
- (e) the violations hindered them from determining the amounts of minimum, straight time, overtime, meal period premium, and rest period premium wages owed to them;
- (f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them, computations they would not have to make if the wage statements contained the required accurate information;
- (g) by understating the wages truly due to them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;
- (h) the wage statements inaccurately understated the wages, hours, and wage rates to which Plaintiffs, the Class, and the Aggrieved Employees were entitled, and Plaintiffs, the Class, and the Aggrieved Employees were paid less than the wages and wage rates to which they were entitled.

1 Thus, Plaintiffs, the Class, and the Aggrieved Employees are owed the amounts provided for in
2 California Labor Code § 226(e) and injunctive relief under California Labor Code § 226(h).

3 28. Throughout the statutory period, Defendants have wrongfully required Plaintiffs,
4 the Class, and the Aggrieved Employees to pay expenses that they incurred in direct discharge of
5 their duties for Defendants. Plaintiffs, the Class, and the Aggrieved Employees regularly paid out-
6 of-pocket for necessary employment-related expenses, including, without limitation, work attire
7 and equipment.

8 29. Plaintiffs, the Class, and the Aggrieved Employees incurred substantial expenses
9 as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify
10 Plaintiffs, the Class, and the Aggrieved Employees for these employment-related expenses.

11 **CLASS ACTION ALLEGATIONS**

12 30. Plaintiffs bring certain claims individually, as well as on behalf of each and all
13 other persons similarly situated, and thus, seek class certification under California Code of Civil
14 Procedure § 382.

15 31. All claims alleged herein arise under California law for which Plaintiffs seek relief
16 authorized by California law.

17 32. The proposed Class consists of and is defined as:

18 All persons who worked for any Defendant in California as an hourly-paid or non-
19 exempt employee at any time during the period beginning four years and 178 days
20 before the filing of the initial complaint in this action and ending when notice to
the Class is sent.¹

21 33. At all material times, Plaintiffs were members of the Class.

22 34. Plaintiffs undertook this concerted activity to improve the wages and working
23 conditions of all Class Members.

24 35. There is a well-defined community of interest in the litigation and the Class is
25 readily ascertainable:

26 (a) Numerosity: The members of the Class (and each subclass, if any) are so

27 ¹ In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a)
28 (California Rules of Court), whereby "statutes of limitations and repose for civil causes of action that exceed 180
days are tolled from April 6, 2020 to October 1, 2020."

1 numerous that joinder of all members would be unfeasible and impractical.
2 The membership of the entire Class is unknown to Plaintiffs at this time;
3 however, the Class is estimated to be greater than forty (40) individuals and
4 the identity of such membership is readily ascertainable by inspection of
5 Defendants' records.

6 (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect
7 the interests of each Class Member with whom there is a shared, well-
8 defined community of interest, and Plaintiffs' claims (or defenses, if any)
9 are typical of all Class Members' claims as demonstrated herein.

10 (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect
11 the interests of each Class Member with whom there is a shared, well-
12 defined community of interest and typicality of claims, as demonstrated
13 herein. Plaintiffs have no conflicts with or interests antagonistic to any
14 Class Member. Plaintiffs' attorneys, the proposed class counsel, are versed
15 in the rules governing class action discovery, certification, and settlement.
16 Plaintiffs have incurred, and throughout the duration of this action, will
17 continue to incur costs and attorneys' fees that have been, are, and will be
18 necessarily expended for the prosecution of this action for the substantial
19 benefit of each class member.

20 (d) Superiority: A Class Action is superior to other available methods for the
21 fair and efficient adjudication of the controversy, including consideration of:
22 1) The interests of the members of the Class in individually controlling
23 the prosecution or defense of separate actions;
24 2) The extent and nature of any litigation concerning the controversy
25 already commenced by or against members of the Class;
26 3) The desirability or undesirability of concentrating the litigation of the
27 claims in the particular forum; and,
28 4) The difficulties likely to be encountered in the management of a

1 class action.

2 (e) Public Policy Considerations: The public policy of the State of California is
3 to resolve the California Labor Code claims of many employees through a
4 class action. Indeed, current employees are often afraid to assert their rights
5 out of fear of direct or indirect retaliation. Former employees are also
6 fearful of bringing actions because they believe their former employers
7 might damage their future endeavors through negative references and/or
8 other means. Class actions provide the class members who are not named in
9 the complaint with a type of anonymity that allows for the vindication of
10 their rights at the same time as their privacy is protected.

11 36. There are common questions of law and fact as to the Class (and each subclass, if
12 any) that predominate over questions affecting only individual members, including without
13 limitation, whether, as alleged herein, Defendants have:

- 14 (a) Failed to pay Class Members for all hours worked, including minimum,
15 straight time, and overtime wages;
- 16 (b) Failed to include non-discretionary bonuses, commissions, monetary and
17 non-monetary incentives, production pay, performance pay, and/or shift
18 differentials in the calculation of the Class Members' regular rate of pay
19 used to calculate the overtime rate for the payment of overtime wages;
- 20 (c) Failed to provide meal periods and pay meal period premium wages to Class
21 Members;
- 22 (d) Failed to authorize and permit rest periods and pay rest period premium
23 wages to Class Members;
- 24 (e) Failed to provide Class Members with timely final wages;
- 25 (f) Failed to provide Class Members with accurate wage statements;
- 26 (g) Failed to indemnify Class Members for expenditures;
- 27 (h) Violated California Business & Professions Code §§ 17200 *et. seq.* as a
28 result of their illegal conduct as described above; and

1 (i) Violated FCRA and ICRAA, as a result of their illegal background checks.

2 37. This Court should permit this action to be maintained as a class action pursuant to
3 California Code of Civil Procedure § 382 because:

- 4 (a) The questions of law and fact common to the Class predominate over any
5 question affecting only individual members;
- 6 (b) A class action is superior to any other available method for the fair and
7 efficient adjudication of the claims of the members of the Class;
- 8 (c) The members of the Class are so numerous that it is impractical to bring all
9 members of the class before the Court;
- 10 (d) Plaintiffs, and the other members of the Class, will not be able to obtain
11 effective and economic legal redress unless the action is maintained as a
12 class action;
- 13 (e) There is a community of interest in obtaining appropriate legal and equitable
14 relief for the statutory violations, and in obtaining adequate compensation
15 for the damages and injuries for which Defendants are responsible in an
16 amount sufficient to adequately compensate the members of the Class for
17 the injuries sustained;
- 18 (f) Without class certification, the prosecution of separate actions by individual
19 members of the class would create a risk of:
- 20 1) Inconsistent or varying adjudications with respect to individual
21 members of the Class which would establish incompatible standards
22 of conduct for Defendants; and/or,
- 23 2) Adjudications with respect to the individual members which would,
24 as a practical matter, be dispositive of the interests of other members
25 not parties to the adjudications, or would substantially impair or
26 impede their ability to protect their interests, including but not
27 limited to the potential for exhausting the funds available from those
28 parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

38. Plaintiffs contemplate the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiffs contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Pay Minimum and Straight Time Wages for All Hours Worked)

39. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully stated herein.

40. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

41. At all relevant times herein mentioned, Defendants knowingly failed to pay to Plaintiffs and the Class compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendants willfully violated the provisions of California Labor Code § 1194, and any additional applicable Wage Orders, which require such compensation to non-exempt employees.

42. Accordingly, Plaintiffs and the Class are entitled to recover minimum and straight time wages for all non-overtime hours worked for Defendants.

43. By and through the conduct described above, Plaintiffs and the Class have been deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

44. By virtue of the Defendants' unlawful failure to pay additional compensation to

1 Plaintiffs and the Class for their non-overtime hours worked without pay, Plaintiffs and the Class
2 suffered, and will continue to suffer, damages in amounts which are presently unknown to
3 Plaintiffs and the Class and which will be ascertained according to proof at trial.

4 45. By failing to keep adequate time records required by California Labor Code §
5 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage
6 compensation due Plaintiffs and the Class.

7 46. Pursuant to California Labor Code § 1194.2, Plaintiffs and the Class are entitled to
8 recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

9 47. California Labor Code § 204 requires employers to provide employees with all
10 wages due and payable twice a month. Throughout the statute of limitations period applicable to
11 this cause of action, Plaintiffs and the Class were entitled to be paid twice a month at rates
12 required by law, including minimum and straight time wages. However, during all such times,
13 Defendants systematically failed and refused to pay Plaintiffs and the Class all such wages due
14 and failed to pay those wages twice a month.

15 48. Plaintiffs and the Class are also entitled to seek recovery of all unpaid minimum
16 and straight time wages, interest, and reasonable attorneys' fees and costs pursuant to California
17 Labor Code §§ 218.5, 218.6, and 1194(a).

18 **SECOND CAUSE OF ACTION**

19 **(By All Plaintiffs Against All Defendants for Failure to Pay Overtime Wages)**

20 49. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully
21 stated herein.

22 50. California Labor Code § 510 provides that employees in California shall not be
23 employed more than eight hours in any workday or forty (40) hours in a workweek unless they
24 receive additional compensation beyond their regular wages in amounts specified by law.

25 51. California Labor Code §§ 1194 and 1198 provide that employees in California shall
26 not be employed more than eight hours in any workday unless they receive additional
27 compensation beyond their regular wages in amounts specified by law. Additionally, California
28 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed

1 by the IWC is unlawful.

2 52. At all times relevant hereto, Plaintiffs and the Class have worked more than eight
3 hours in a workday and/or more than forty (40) hours in a workweek, as employees of Defendants.

4 53. At all times relevant hereto, Defendants failed to pay Plaintiffs and the Class
5 overtime compensation for the hours they have worked in excess of the maximum hours
6 permissible by law as required by California Labor Code §§ 510 and 1198.

7 54. By virtue of Defendants' unlawful failure to pay additional premium rate
8 compensation to the Plaintiffs and the Class for their overtime hours worked, Plaintiffs and the
9 Class have suffered, and will continue to suffer, damages in amounts which are presently unknown
10 to them but which exceed the jurisdictional minimum of this Court and which will be ascertained
11 according to proof at trial.

12 55. At all times relevant hereto, Defendants failed to include non-discretionary bonuses,
13 commissions, monetary and non-monetary incentives, production pay, performance pay, and/or
14 shift differentials in the calculation of Plaintiffs' and the other Class Members' regular rate of pay
15 used to calculate the overtime rate for the payment of overtime wages.

16 56. By failing to keep adequate time records required by Labor Code § 1174(d),
17 Defendants have made it difficult to calculate the full extent of overtime compensation due to
18 Plaintiffs and the Class.

19 57. Plaintiffs and the Class also request recovery of overtime compensation according
20 to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as
21 the assessment of any statutory penalties against Defendants, in a sum as provided by the
22 California Labor Code and/or other statutes.

23 58. California Labor Code § 204 requires employers to provide employees with all
24 wages due and payable twice a month. The Wage Orders also provide that every employer shall
25 pay to each employee, on the established payday for the period involved, overtime wages for all
26 overtime hours worked in the payroll period. Defendants failed to provide Plaintiffs and the Class
27 with all compensation due, in violation of California Labor Code § 204.

28

THIRD CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Provide Meal Periods)

59. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully stated herein.

60. Under California law, Defendants have an affirmative obligation to relieve the Plaintiffs and the Class of all duty in order to take their first daily meal periods no later than the start of Plaintiffs' and the Class' sixth hour of work in a workday, and to take their second meal periods no later than the start of the eleventh hour of work in the workday. California Labor Code § 512, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least thirty (30) minutes for each five-hour period worked. It is a violation of California Labor Code § 226.7 for an employer to require any employee to work during any meal period mandated under any Wage Order.

61. Despite these legal requirements, Defendants regularly failed to provide Plaintiffs and the Class with both meal periods as required by California law. By their failure to permit and authorize Plaintiffs and the Class to take all meal periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted meal periods), Defendants willfully violated the provisions of California Labor Code § 226.7 and the applicable Wage Orders.

62. Under California law, Plaintiffs and the Class are entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s), plus interest thereon.

FOURTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Authorize and Permit Rest Periods)

63. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully stated herein.

64. Defendants are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). California Labor Code § 512, the applicable Wage Orders require that the employer

1 permit and authorize all employees to take paid rest periods of ten minutes each for each 4-hour
2 period worked. Thus, for example, if an employee's work time is six hours and ten minutes, the
3 employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself
4 a violation of California's rest break laws. It is a violation of California Labor Code § 226.7 for
5 an employer to require any employee to work during any rest period mandated under any Wage
6 Order.

7 65. Despite these legal requirements, Defendants failed to authorize Plaintiffs and the
8 Class to take rest breaks, regardless of whether employees worked more than four hours in a
9 workday. By their failure to permit and authorize Plaintiffs and the Class to take rest periods as
10 alleged above (or due to the fact that Defendants made it impossible or impracticable to take these
11 uninterrupted rest periods), Defendants willfully violated the provisions of California Labor Code
12 § 226.7 and the applicable Wage Orders.

13 66. Under California law, Plaintiffs and the Class are entitled to be paid one hour of
14 premium wages rate for each workday he or she was not provided with all required rest break(s),
15 plus interest thereon.

16 **FIFTH CAUSE OF ACTION**

17 **(By All Plaintiffs Against All Defendants for Failure to Pay Wages of Discharged Employees**
18 **– Waiting Time Penalties)**

19 67. Plaintiffs incorporate by reference and re-allege each and every paragraph as if
20 fully stated herein.

21 68. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
22 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due
23 and payable immediately, and that if an employee voluntarily leaves his or her employment, his or
24 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless
25 the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in
26 which case the employee is entitled to his or her wages at the time of quitting.

27 69. Within the applicable statute of limitations, the employment of many other
28 members of the Class ended, i.e. was terminated by quitting or discharge, and the employment of

1 others will be. However, during the relevant time period, Defendants failed, and continue to fail
2 to pay terminated Class Members, without abatement, all wages required to be paid by California
3 Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of
4 their leaving Defendants' employ.

5 70. Defendants' failure to pay those Class members who are no longer employed by
6 Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72)
7 hours of their leaving Defendants' employ, is in violation of California Labor Code §§ 201 and
8 202.

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

13 72. The Class is entitled to recover from Defendants their additionally accruing wages
14 for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days
15 maximum pursuant to California Labor Code § 203.

16 73. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, the Class is also
17 entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this
18 action.

19 **SIXTH CAUSE OF ACTION**

20 **(By All Plaintiffs Against All Defendants for Failure to Provide and Maintain Accurate and** 21 **Compliant Wage Records)**

22 74. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully
23 stated herein.

24 75. At all material times set forth herein, California Labor Code § 226(a) provides that
25 every employer shall furnish each of his or her employees an accurate itemized wage statement in
26 writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours
27 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if
28 the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on

1 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
2 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
3 and the last four digits of his or her social security number or an employee identification number
4 other than a social security number, (8) the name and address of the legal entity that is the
5 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
6 number of hours worked at each hourly rate by the employee.

7 76. Defendants have intentionally and willfully failed to provide employees with
8 complete and accurate wage statements. The deficiencies include, among other things, the failure
9 to correctly identify the gross wages earned by Plaintiffs and the Class, the failure to list the true
10 "total hours worked by the employee," and the failure to list the true net wages earned.

11 77. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiffs
12 and the Class have suffered injury and damage to their statutorily protected rights.

13 78. Specifically, Plaintiffs and the members of the Class have been injured by
14 Defendants' intentional violation of California Labor Code § 226(a) because they were denied
15 both their legal right to receive, and their protected interest in receiving, accurate, itemized wage
16 statements under California Labor Code § 226(a).

17 79. Calculation of the true wage entitlement for Plaintiffs and the Class is difficult and
18 time consuming. As a result of this unlawful burden, Plaintiffs and the Class were also injured as
19 a result of having to bring this action to attempt to obtain correct wage information following
20 Defendants' refusal to comply with many of the mandates of California's Labor Code and related
21 laws and regulations.

22 80. Plaintiffs and the Class are entitled to recover from Defendants the greater of their
23 actual damages caused by Defendants' failure to comply with California Labor Code § 226(a), or
24 an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

25 81. Plaintiffs and the Class are also entitled to injunctive relief, as well as an award of
26 attorneys' fees and costs to ensure compliance with this section, pursuant to California Labor
27 Code § 226(h).
28

SEVENTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Indemnify Employees for Expenditures)

82. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully stated herein.

83. As set forth above, Plaintiffs and the Class were required to incur substantial necessary expenditures and losses in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

84. Defendants violated California Labor Code § 2802, by failing to pay and indemnify Plaintiffs and the Class for necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

85. As a result, Plaintiffs and the Class were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendants from their wages.

86. Plaintiffs and the Class are entitled to reasonable attorneys' fees, expenses, and costs of suit pursuant to California Labor Code § 2802(c) and interest pursuant to California Labor Code § 2802(b).

EIGHTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Violation of California Business & Professions Code §§ 17200, *et seq.*)

87. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully stated herein.

88. Defendants, and each of them, are "persons" as defined under California Business & Professions Code § 17201.

89. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiffs, other Class members, and to the general public. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

90. Defendants' activities, as alleged herein, are violations of California law, and

1 constitute unlawful business acts and practices in violation of California Business & Professions
2 Code §§ 17200, *et seq.*

3 91. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
4 predicated on the violation of any state or federal law. All of the acts described herein as
5 violations of, among other things, the California Labor Code, are unlawful and in violation of
6 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,
7 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of
8 California Business & Professions Code §§ 17200, *et seq.*

9 **Failure to Pay Minimum and Straight Time Wages**

10 92. Defendants' failure to pay minimum and straight time wages, and other benefits in
11 violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by
12 California Business & Professions Code §§ 17200, *et seq.*

13 **Failure to Pay Overtime Wages**

14 93. Defendants' failure to pay overtime compensation and other benefits in violation of
15 California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity
16 prohibited by California Business & Professions Code §§ 17200, *et seq.*

17 **Failure to Provide Meal Periods**

18 94. Defendants' failure to provide meal periods in accordance with California Labor
19 Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or
20 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

21 **Failure to Authorize and Permit Rest Periods**

22 95. Defendants' failure to authorize and permit rest periods in accordance with
23 California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful
24 and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

25 **Failure to Indemnify Business Expenses**

26 96. Defendants' failure to reimburse expenses incurred in accordance with California
27 Labor Code § 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by
28 California Business & Professions Code §§ 17200, *et seq.*

1 97. By and through their unfair, unlawful and/or fraudulent business practices described
2 herein, the Defendants, have obtained valuable property, money and services from Plaintiffs, and
3 all persons similarly situated, and has deprived Plaintiffs, and all persons similarly situated, of
4 valuable rights and benefits guaranteed by law, all to their detriment.

5 98. Plaintiffs and the Class Members suffered monetary injury as a direct result of
6 Defendants' wrongful conduct.

7 99. Plaintiffs, individually, and on behalf of members of the putative Class, is entitled
8 to, and does, seek such relief as may be necessary to disgorge money and/or property which the
9 Defendants have wrongfully acquired, or of which Plaintiffs and the Class have been deprived, by
10 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiffs and
11 the Class are not obligated to establish individual knowledge of the wrongful practices of
12 Defendants in order to recover restitution.

13 100. Plaintiffs, individually, and on behalf of members of the putative class, is further
14 entitled to, and does, seek a declaration that the above-described business practices are unfair,
15 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
16 from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices
17 in the future.

18 101. Plaintiffs, individually, and on behalf of members of the putative class, has no
19 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members
20 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business
21 practices. As a result of the unfair, unlawful and/or fraudulent business practices described above,
22 Plaintiffs, individually, and on behalf of members of the putative Class, has suffered and will
23 continue to suffer irreparable harm unless the Defendants, and each of them, are restrained from
24 continuing to engage in said unfair, unlawful and/or fraudulent business practices.

25 102. Plaintiffs also allege that if Defendants are not enjoined from the conduct set forth
26 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
27 withholdings.

28 103. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiffs

1 and putative Class Members are entitled to restitution of the wages withheld and retained by
2 Defendants during a period that commences four years and 178 days prior to the filing of this
3 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to
4 Plaintiffs and Class Members; an award of attorneys' fees pursuant to California Code of Civil
5 Procedure § 1021.5 and other applicable laws; and an award of costs.

6 **NINTH CAUSE OF ACTION**

7 **(By All Plaintiffs Against All Defendants for Violation of Fair Labor Standards Act,**
8 **29 U.S.C. sections 207, 216)**

9 104. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully
10 stated herein.

11 105. Plaintiffs bring this claim under the Fair Labor Standards Act ("FLSA"), 29 U.S.C.
12 sections 216(b), which authorizes private rights of action to recover damages for violations of the
13 FLSA's wage and hour provisions.

14 106. Plaintiffs bring this FLSA claim on behalf of themselves, and all similarly situated
15 individuals employed by Defendants as a non-exempt employee in the United States at any time
16 within three years prior to the filing of the initial Complaint ("FLSA Class").

17 107. Plaintiffs and the FLSA Class are or were employed by Defendants within the
18 meaning of the FLSA.

19 108. At all relevant times, Defendants were "employers" engaged in interstate
20 "commerce" and/or in the production of "goods" for "commerce", within the meaning of FLSA,
21 29 U.S.C. section 203 and grossed more than \$500,000 in each of the last three calendar years.

22 109. Attached hereto as **Exhibit 1** is Plaintiff Romero's consent to sue pursuant to
23 section 16(b) of the FLSA, 29 U.S.C. sections 216(b) and 256. Other FLSA Class members will
24 likely sign consent to sue forms and join as opt-in plaintiffs on this claim in the future.

25 110. The FLSA requires each covered employer, such as Defendants, to compensate all
26 non-exempt employees for all hours worked and overtime at a rate of no less than one and one-
27 half times the regular rate of pay for work performed in excess of forty hours in a workweek.
28 As alleged above, in violation of 29 U.S.C., section 206, Defendants failed to compensate

1 Plaintiffs and the FLSA Class members minimum wage for all hours worked by virtue of
2 Defendants' time rounding and mandated off-the-clock work policies and practices, including
3 but not limited to, post-shift off-the-clock work in the form of performing vehicle quality
4 inspections, vehicle touch-ups and/or polish work and/or other assigned work tasks while off the
5 clock, off-the-clock work in the form of donning and doffing personal protective equipment,
6 safety equipment and/or uniforms and/or work clothing/shoes during meal periods, rest periods,
7 before the start of a scheduled shift, and/or after completing a scheduled shift, as well as other
8 off-the-clock work during unpaid meal periods, time spent reviewing Defendants'
9 policies/completing required training, orientation, and/or the onboarding process as well as
10 completing other assigned work tasks while off the clock.

11 111. As alleged above, in violation of 29 U.S.C., section 207, Defendants failed to
12 compensate all overtime hours by virtue of their time rounding policies and practices and the
13 above-described off-the-clock work policies and practices. Moreover, based on information and
14 belief, Defendants, in violation of 29 U.S.C., section 207, failed to incorporate all non-
15 discretionary compensation, including but not limited to bonuses/incentive pay, shift differential
16 pay and/or other non-discretionary compensation into the regular rate of pay for purposes of
17 calculating the owed overtime rate when Plaintiffs and the FLSA Class members worked in excess
18 of 40 hours in a workweek.

19 112. Defendants failed to make a good faith effort to comply with the FLSA as it relates
20 to the compensation of Plaintiffs and members of the FLSA Class. Defendants knew Plaintiffs and
21 members of the FLSA Class worked minimum and overtime hours without proper compensation.
22 This conduct constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. section
23 255(a).

24 113. Plaintiffs on behalf of themselves and the FLSA Class, seek damages in the amount
25 of the unpaid minimum and overtime wages, liquidated damages as provided by the FLSA, and
26 such other legal and equitable relief as the Court deems just and proper.

27 114. Plaintiffs, on behalf of themselves and the FLSA Class, also seek recovery of
28 attorneys' fees and costs of suit incurred as provided by the FLSA, 29 U.S.C. section 216(b).

TENTH CAUSE OF ACTION

**(By All Plaintiffs Against All Defendants for Violation of the Private Attorneys General Act,
Labor Code §§ 2698, *et seq.*)**

115. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully stated herein.

116. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

117. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: "Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3."

118. Plaintiffs have exhausted their administrative remedies pursuant to California Labor Code § 2699.3. They gave written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiffs and current and former Aggrieved Employees, including the facts and theories to support the violations. Plaintiffs also paid the filing fee.

119. The LWDA has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiffs may commence a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

120. Based on the conduct described in this Complaint, Plaintiffs are entitled to an award of civil penalties on behalf of themselves, the State of California, and similarly Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to

1 be shown according to proof at trial. These penalties are in addition to all other remedies
2 permitted by law.

3 121. In addition, Plaintiffs seek an award of reasonable attorneys' fees and costs
4 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any
5 action shall be entitled to an award of reasonable attorneys' fees and costs."

6 **ELEVENTH CAUSE OF ACTION**

7 **(By All Plaintiffs Against All Defendants for Violation of the Federal Credit Reporting Act,**
8 **15 U.S.C. sections 1671, et seq.)**

9 122. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully
10 stated herein.

11 123. Defendants are "persons" as defined by section 1681a(b) of the FCRA.

12 124. Plaintiffs and the FCRA Class members are "consumers" within the meaning of
13 section 1681a(c) of the FCRA, because they are "individuals."

14 125. Plaintiffs allege based on information and belief that in evaluating Plaintiffs and the
15 FCRA Class for employment, Defendants procured or caused to be prepared background reports
16 (i.e., a consumer report and/or investigative consumer report, as defined by 15 U.S.C. section
17 1681a(d)(1)(B) and 15 U.S.C. section 1681(a)).

18 126. Under the FCRA, it is unlawful to procure or cause to be procured, a consumer or
19 investigative consumer report for employment purposes unless a "clear and conspicuous" disclosure
20 is made in a document that consists "solely" of the disclosure and the consumer has authorized, in
21 writing, the procurement of the report. 15 U.S.C. section 1681b(b)(2)(A)(i)-(ii).

22 127. The disclosures provided by Defendants contain extraneous and superfluous
23 language that does not consist solely of the disclosure as required by the FCRA and/or is not clear
24 and conspicuous. In violation of Section 1681b(b)(2)(A) of the FCRA, the following provisions of
25 Defendants' disclosure documents contain extraneous information that violates the "solely"
26 requirement of the FCRA and/or is not clear and conspicuous.

27 128. The inclusion of the extraneous provisions causes the disclosure to fail to be "clear
28 and conspicuous" and "clear and accurate," and thus violates Sections 1681b(b)(2)(A) and 1681d(a).

Specifically, the disclosure does not comply with the “clear and conspicuous” requirement for among other reasons: (1) the disclosure includes multi-state information that is not a permissible element in an FCRA disclosure and reduces clarity as to what rights each applicant or employee possesses and (2) The disclosure includes language that implies a limitation to the scope of the authorization but does not clearly state what those limitations may be and reduces clarity as to what rights each applicant or employee possesses. The FCRA disclosure should be a standalone document and, if desired, a bare authorization to obtain information, without being weighed down by multiple, irrelevant state law references, and contradictory rights summaries, and acknowledgment of receipt of separate documents, and impermissible references to side documents containing information not set forth in the purported disclosure.

129. The purported disclosures provided to Plaintiffs and other class members prior to obtaining background reports do not meet the requirements under the law because they do not stand alone as they were included as part of Defendants’ employment application and are embedded with extraneous information, including, but not limited to, multiple state law disclosures. See, *Syed v. M-1, LLC*, 846 F.3d 1034 (9th Cir. 2017) and *Gilberg v. Cal. Check Cashing Stores, LLC*, 913 F.3d 1169 (9th Cir. 2019).

130. Moreover, section 1681d(a)(1) of the FCRA provides:

A person may not procure or cause to be prepared an investigative consumer report on any consumer unless:

- (1) it is *clearly and accurately disclosed* to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and *mode of living*, whichever are applicable, may be made, and such disclosure; (Emphasis Added.)
- (2) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and
- (3) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section *and the written summary of the rights of the consumer prepared pursuant to section 1681g(c)* of this title; (Emphasis Added.)

(4) Subsection (b) of Section 1681d(a)(1) provides:

Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a)(1) of this section (a)(1) of this section, make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

131. Defendants did not comply with Section 1681d(a)(1) because Defendants failed to disclose that its investigative consumer report may include investigation into "mode of living." Defendants further violated Section 1681d(a)(1) by including in its disclosure form, extraneous provisions and information, such as, but not limited to, the multi-state-law disclosures described *supra*, causing the FCRA disclosure to not be "clear and accurate," in violation of Section 1681d(a). Defendants further failed to comply with Section 1681d(a)(1) by failing to provide Plaintiffs and the FCRA Class with a written summary of rights pursuant to Section 1681g(c).

132. Section 1681g(c) provides for a summary of rights to obtain and dispute information in consumer reports and to obtain credit scores as:

(1) Commission summary of rights requires:

(A) The Commission shall prepare *a model summary of the rights* of consumers under this subchapter.

(B) Content of summary:

The summary of rights prepared under subparagraph (A) shall include a description of –

- (i) the right of a consumer to obtain a copy of a consumer report under subsection (a) of this section from each consumer reporting agency;
- (ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under subsection 1681j of this title;
- (iii) the right of a consumer to dispute information in the file of the consumer under subsection 1681i of this title;
- (iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score;
- (v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Bureau prescribed under section 211© of the Fair and

Accurate Credit Transactions Act of 2003; and

- (vi) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency described in section 1681a(w) of this title, as provided in the regulations of the Bureau prescribed under section 1681j(a)(1)(C) of this title.

133. Defendants did not comply with Section 1681g(c) because no such summary of rights was ever provided to Plaintiffs and the Class. Defendants did not comply with Section 1681g(c) because the disclosure included information contrary to the FCRA.

134. Based upon facts that are likely to have evidentiary support after a reasonable opportunity for investigation and discovery, Plaintiffs allege that Defendants have a policy and practice of failing to provide adequate written disclosures to applicants and employees, before procuring credit reports and/ or consumer investigative reports or causing credit reports and/ or consumer investigative reports to be procured, as described above. Pursuant to that policy and practice, Defendants procured credit reports and/or consumer investigative reports or caused such reports to be procured for Plaintiffs and class members that are in non-compliance with Sections 1681b(b)(2)(A), 1681d(a)(1) and 1681g(c), as described above.

135. Defendants' conduct in violation of Sections 1681b(b)(2)(A), 1681d(a)(1) and 1681g(c) was and is willful. Defendants acted in deliberate or reckless disregard of its obligations and the rights of applicants and employees, including Plaintiffs and class members. Defendants' willful conduct is reflected by, among other things, the following facts:

- (a) Defendants are large entities with access to legal advice;
- (b) Defendants required a purported authorization to perform credit checks and obtain investigative consumer reports in the process of employing the class members which, although defective, evidences Defendants' awareness of and willful failure to follow the governing laws concerning such authorizations; and

136. Accordingly, Defendants willfully violated and continue to violate the FCRA, including but not limited to, sections 1681b(b)(2)(A), 1681d(a)(1) and 1681g(c). Defendants' willful conduct is reflected by, among other things, the facts set forth above.

1 137. Plaintiffs, on behalf of themselves and the FCRA Class, seek remedies pursuant to
2 the 15 U.S.C. section 1681n, including, statutory damages and attorneys' fees and costs.

3 138. Pursuant to the FCRA, 15 U.S.C. section 1681n, Plaintiffs and the class members
4 are entitled to recover statutory damages of "not less than \$100 and not more than \$1000 dollars"
5 for each of Defendants' violations.

6 **TWELFTH CAUSE OF ACTION**

7 **(By All Plaintiffs Against All Defendants for Violation of the Investigative Consumer**
8 **Reporting Agencies Act, Cal. Civ. Code Civ. Code sections 1786, et seq.)**

9 139. Plaintiffs incorporate by reference and re-allege each and every paragraph as if fully
10 stated herein.

11 140. Defendants are "persons" as defined by Cal. Civ. Code § 1786.2(a).

12 141. Plaintiffs and ICRAA Class Members are "consumers" within the meaning of §
13 1786.2(b) of the ICRAA, because they are "individuals."

14 142. Section 1786.2(c) of the ICRAA defines "investigative consumer report" as "a
15 consumer report in which information on a consumer's character, general reputation, personal
16 characteristics, or mode of living is obtained through any means."

17 143. Thus, a background check qualifies as an investigative consumer report under the
18 ICRAA.

19 144. Section 1786.2(d) of the ICRAA defines "investigative consumer reporting agency"
20 as "any person who, for monetary fees or dues, engages in whole or in part in the practice of
21 collecting, assembling, evaluating, compiling, reporting, transmitting, transferring, or
22 communicating information concerning consumers for the purposes of furnishing investigative
23 consumer reports to third parties, but does not include any governmental agency whose records are
24 maintained primarily for traffic safety, law enforcement, or licensing purposes, or any licensed
25 insurance agent, insurance broker, or solicitor, insurer, or life insurance agent."

26 145. Section 1786.16(a)(2)(B)(iv)-(vi) of the ICRAA provides in relevant part as
27 follows:
28

1 (2) If, at any time, an investigative consumer report is sought for employment
2 purposes other than suspicion of wrongdoing or misconduct by the subject of the
3 investigation, the person seeking the investigative consumer report may procure the
4 report, or cause the report to be made, only if all of the following apply:

5 ...
6 (B) The person procuring or causing the report to be made provides a *clear*
7 *and conspicuous disclosure* in writing to the consumer at any time before the
8 report is procured or caused to be made in a document that consists solely of
9 the disclosure, that:

10 ...
11 (iii) The disclosure may include information on the consumer's character,
12 general reputation, personal characteristics, and *mode of living*.

13 ...
14 (v) *Notifies the consumer in writing of the nature and scope of the*
15 *investigation requested, including a summary of the provisions of Section*
16 *1786.22.* (Emphasis added.)

17 (C) The consumer has authorized in writing the procurement of the report.

18 146. As described above, Plaintiffs allege that in evaluating their and other class members
19 for employment, Defendants procured or caused to be prepared investigative consumer reports (e.g.
20 background checks), as defined by Cal. Civ. Code § 1786.2(c).

21 147. When Plaintiffs applied for employment with Defendants, Defendants did not
22 provide Plaintiffs with required Disclosures and Authorizations ("Disclosure" or "Authorization").

23 148. Defendants violated Sections 1786.16(a)(2)(b)(iii and v) and 1786.20 of the ICRAA
24 by failing to provide the nature and scope of the investigation, including that the investigation may
25 include information on Plaintiffs' "mode of living", as well as failing to provide a summary of the
26 provisions of Section 1786.22 (right to inspect files). *See* Cal. Civ. Code § 1786(a)(2)(B)(iii and v).

27 149. Based upon facts that are likely to have evidentiary support after a reasonable
28 opportunity for investigation and discovery, Plaintiffs allege that Defendants have a policy and
practice of failing to provide adequate written disclosures to applicants and employees, before
procuring credit reports or causing credit reports to be procured, as described above. Pursuant to
that policy and practice, Defendants procured credit reports or caused credit reports to be procured
for Plaintiffs and class members without first providing a written notice in compliance with §
1786.16(a)(2)(B) of the ICRAA, as described above.

1 Defendants' conduct in violation of § 1786.16(a)(2)(B) of the ICRAA was and is willful and/or
2 grossly negligent. Defendants acted in deliberate or reckless disregard of their obligations and the
3 rights of applicants and employees, including Plaintiffs and class members. Defendants' willful
4 conduct is reflected by, among other things, the following facts:

- 5 (a) Defendants are a large corporation with access to legal advice;
- 6 (b) Defendants required a purported authorization to perform credit checks in the
7 process of employing the class members which, although defective, evidences
8 Defendants' awareness of and willful failure to follow the governing laws
9 concerning such authorizations; and
- 10 (c) The plain language of the statute unambiguously indicates the failure to
11 include the provisions identified above in violation of the ICRAA's notice
12 requirement.

13 150. As a result of Defendants' illegal procurement of credit reports by way of their
14 inadequate notice, as set forth above, Plaintiffs and class members have been injured including, but
15 not limited to, having their privacy and statutory rights invaded in violation of the ICRAA.

16 151. Plaintiffs, on behalf of themselves and all class members, seek all available remedies
17 pursuant to Cal. Civ. Code § 1786.50, including statutory damages and/or actual damages, punitive
18 damages, injunctive relief, and attorneys' fees and costs.

19 152. In the alternative to Plaintiffs' allegation that these violations were willful, Plaintiffs
20 allege that the violations were negligent and seek the appropriate remedy, if any, under Cal. Civ.
21 Code § 1786.50(a), including but not limited to actual damages and attorneys' fees and costs.

22 PRAYER FOR RELIEF

23
24 Plaintiffs, individually, and on behalf of all others similarly situated only with respect to
25 the class claims, prays for relief and judgment against Defendants, jointly and severally, as
26 follows:

27 Class Certification

- 28 1. That this action be certified as a class action with respect to the First, Second,

1 Third, Fourth, Fifth, Sixth, Seventh, Eighth, Eleventh and Twelfth Causes of Action;

2 2. That this action be certified as a collective action with respect to the Ninth Cause of
3 Action;

4 3. That Plaintiffs be appointed as the representatives of the Class; and,

5 4. That counsel for Plaintiffs be appointed as Class Counsel.

6 As to the First Cause of Action

7 5. That the Court declare, adjudge, and decree that Defendants violated California
8 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
9 minimum and straight time wages due;

10 6. For unpaid wages as may be appropriate;

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

13 8. For liquidated damages;

14 9. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
15 California Labor Code § 1194(a); and,

16 10. For such other and further relief as the Court may deem equitable and appropriate.

17 As to the Second Cause of Action

18 11. That the Court declare, adjudge, and decree that Defendants violated California
19 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
20 overtime wages due;

21 12. For unpaid wages at overtime wage rates as may be appropriate;

22 13. For pre-judgment interest on any unpaid overtime compensation commencing from
23 the date such amounts were due;

24 14. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
25 California Labor Code § 1194(a); and,

26 15. For such other and further relief as the Court may deem equitable and appropriate.

27 ///

28 ///

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

17. For unpaid meal period premium wages as may be appropriate;

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

19. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and,

20. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

21. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

22. For unpaid rest period premium wages as may be appropriate;

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

24. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and,

25. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

26. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

27. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendants' employ;

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

29. For reasonable attorneys' fees and for costs of suit incurred herein; and,

30. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

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

32. For all actual damages, according to proof;

33. For statutory penalties pursuant to California Labor Code § 226(e);

34. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h);

35. For reasonable attorneys' fees and for costs of suit incurred herein; and,

36. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

37. That the Court declare, adjudge, and decree that Defendants violated California Labor Code § 2802 by willfully failing to indemnify employees for expenditures;

38. For unpaid wages or unreimbursed business expenses as may be appropriate;

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

40. For reasonable attorneys' fees and for costs of suit incurred herein; and,

41. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

42. That the Court declare, adjudge, and decree that Defendants violated California Business & Professions Code §§ 17200, *et seq.* by failing to pay for all hours worked (minimum, straight time, and overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, and failing to indemnify employees for expenditures;

43. For restitution of unpaid wages to Plaintiffs and all Class Members and prejudgment interest from the day such amounts were due and payable;

44. 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 violations of California Business & Professions Code §§ 17200 *et seq.*;

1 45. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure § 1021.5;

3 46. For injunctive relief to ensure compliance with this section, pursuant to California
4 Business & Professions Code §§ 17200, *et seq.*; and,

5 47. For such other and further relief as the Court may deem equitable and appropriate.

6 As to the Ninth Cause of Action

7 48. That the Court declare, adjudge, and decree that Defendants violated the Fair Labor
8 Standards Act, 29 U.S.C. §§ 207, 216;

9 49. For damages in the amount of the unpaid minimum and overtime wages, liquidated
10 damages, costs of suit, interest, reasonable attorneys' fees, and for such other and further relief as
11 the Court may deem equitable and appropriate.

12 As to the Tenth Cause of Action

13 50. That the Court declare, adjudge, and decree that Defendants violated the California
14 Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, *et seq.*;

15 51. For statutory penalties, civil penalties, costs of suit, interest, reasonable attorneys'
16 fees, and for such other and further relief as the Court may deem equitable and appropriate.

17 As to the Eleventh Cause of Action

18 52. That the Court declare, adjudge, and decree that Defendants violated the Fair Credit
19 Reporting Act, 15 U.S.C. § 1681, *et seq.*;

20 53. For statutory penalties, civil penalties, putative damages, injunctive relief, costs of
21 suit, interest, reasonable attorneys' fees, and for such other and further relief as the Court may deem
22 equitable and appropriate.

23 As to the Twelfth Cause of Action

24 54. That the Court declare, adjudge, and decree that Defendants violated the Investigative
25 Consumer Reporting Agencies Act, Cal. Civ. Code § 1786, *et seq.*;

26 55. For statutory penalties, civil penalties, putative damages, injunctive relief, costs of
27 suit, interest, reasonable attorneys' fees, and for such other and further relief as the Court may deem
28 equitable and appropriate.

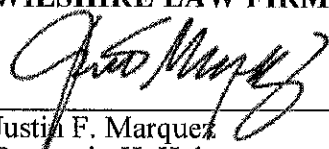
As to all Causes of Action

56. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: January 13, 2023

WILSHIRE LAW FIRM

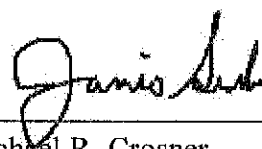
By: 

Justin F. Marquez
Benjamin H. Haber
Arrash T. Fattahi

Attorneys for Plaintiff Angel Armenta

Dated: January 13, 2023

CROSNER LEGAL, PC

By: 

Michael R. Crosner
Zachary M. Crosner
Jamie Serb

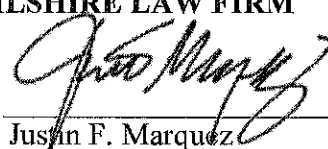
Attorneys for Plaintiff Jakkob Romero

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all causes of action triable by jury.

Dated: January 13, 2023

WILSHIRE LAW FIRM

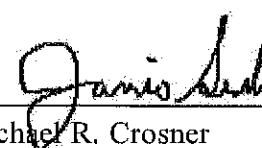
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Dated: January 13, 2023

CROSNER LEGAL, PC

By: 

Michael R. Crosner
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Jamie Serb

Attorneys for Plaintiff Jakkob Romero

PROOF OF SERVICE

Armenta v. Blue Beacon International, Incorporated, et al.
CIVSB2206415

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Ashley Narinyans, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is anarinyans@wilshirelawfirm.com.

On March 29, 2023, I served the foregoing **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

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Attorneys for Plaintiff Jakkob Romero

(X) **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection

1 and processing of correspondence for mailing with the United States Postal Service, and
2 that the correspondence shall be deposited with the United States Postal Service the same
day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a).

3 (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
4 California, by e-mail delivery on the parties listed herein at their most recent known
email address or e-mail of record in this action.

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

7 Executed this **March 29, 2023** at Los Angeles, California.

8 
9 Ashley Narinyans