

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

MAR 04 2015

BY Cassandra Delatorre  
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12 and the Plaintiff Class

13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

15 TIFFANY HANNIBALE, individually, )  
16 and on behalf of all others similarly )  
17 situated, )

18 Plaintiffs, )

19 vs. )

20 CROCS, INC., INTELLISOURCE, )  
21 LLC, and DOES 1 through 100, )  
22 inclusive, )

23 Defendants. )

Case No. CIVDS1502994

CLASS ACTION

**COMPLAINT FOR DAMAGES,  
INJUNCTIVE RELIEF AND RESTITUTION**

**[DEMAND FOR JURY TRIAL]**

24 Representative Plaintiff alleges as follows:

25 PRELIMINARY STATEMENT

26 1. This is a class action seeking unpaid wages, including meal and rest period  
27 compensation, interest thereon, and other penalties, injunctive and other equitable relief, and  
28 reasonable attorneys' fees and costs under, *inter alia*, California Labor Code §§ 200-204, inclusive,  
221, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198 and 2699 California Business and Professions  
Code §§ 17200, *et seq.* and California Code of Civil Procedure § 1021.5. Plaintiff Tiffany Hannibale  
("Plaintiff") brings this action on behalf of herself and all other persons similarly situated ("Class  
Members" and/or the "Plaintiff Class") who are or have been employed by Defendants Crocs, Inc.,

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1 Intellisource, LLC and/or Does 1 through 100, inclusive (collectively “Defendants”) as non-exempt  
2 distribution warehouse workers within the State of California at any time after March 4, 2011.

3 2. The “Class Period” is designated as the time from March 4, 2011 through the date of  
4 trial and is based upon the allegation that Defendants’ violations of California’s wage and hour laws,  
5 as described more fully below, have been ongoing during that time.

6 3. During the Class Period, Defendants have had a consistent policy of, *inter alia*,  
7 (1) requiring their non-exempt distribution warehouse workers, including Plaintiff and Class  
8 Members, to remain at work, under the control of Defendants, after completion of these workers’  
9 ordinary duties, without paying these employees’ wages (including overtime wages) for all  
10 compensable time, (2) requiring its non-exempt distribution warehouse workers, including Plaintiff  
11 and Class Members, to submit to mandatory security checks of their persons and/or belongings  
12 without paying them compensation (including unpaid overtime and/or compensation for working  
13 through paid and/or unpaid meal and/or rest periods), (3) willfully failing to pay compensation  
14 owing in a prompt and timely manner to Plaintiff and/or Class Members whose employment with  
15 Defendants was terminated, (4) willfully failing to provide Plaintiff and Class Members with  
16 accurate semimonthly itemized statements of the total number of hours each of them worked, the  
17 applicable deductions and the applicable hourly rates in effect during the applicable pay period, (5)  
18 willfully failing to provide meal periods and/or rest periods to Plaintiff and/or Class Members; and  
19 (6) willfully deducting monies from Class Members’ wages for failing to meet daily quotas.

20 **INTRODUCTION**

21 4. Plaintiff is informed and believes and, based thereon, alleges that, within the Class  
22 Period, Defendants operated one or more distribution warehouses within the State of California. In  
23 doing so, Defendants have employed hundreds if not thousands of individuals in non-exempt  
24 warehouse distribution positions which are entitled to full, uninterrupted and statutorily-mandated  
25 meal and rest periods, as well as other benefits of employment as set forth herein.

26 5. Despite actual knowledge of these facts and legal mandates, Defendants have and  
27 continue to enjoy an advantage over their competition and a resultant disadvantage to their workers  
28 by electing not to sufficiently offer meal and rest periods to their California non-exempt distribution

1 warehouse workers, by not providing them all regular and/or overtime pay (as a result thereof) when  
2 due and/or when certain Class Members' employment with Defendants terminated, by willfully  
3 failing to provide Plaintiff and Class Members with accurate semi-monthly itemized wage  
4 statements, and by willfully deducting wages from Plaintiff and Class Members' pay when they  
5 failed to reach daily quotas imposed by Defendants.

6 6. Plaintiff is informed and believes and, based thereon alleges that officers of  
7 Defendants knew of these facts and legal mandates yet, nonetheless, repeatedly authorized and/or  
8 ratified the violation of the laws cited herein.

9 7. Despite Defendants' knowledge of Plaintiff and Class Members' entitlement to these  
10 benefits of employment, Defendants failed to provide same, for all applicable work periods, in  
11 violation of California state statutes, California Industrial Welfare Commission Wage Order No. 7,  
12 and Title 8 of the California Code of Regulations. This action is brought to redress and end this long-  
13 time pattern of unlawful conduct once and for all.

14 **JURISDICTION AND VENUE**

15 8. This Court has jurisdiction over the Representative Plaintiff and Class Members'  
16 claims for unpaid wages, penalties and other forms of relief sought herein under, *inter alia*,  
17 Industrial Welfare Commission Wage Order No. 7, Title 8 of the California Code of Regulations,  
18 Labor Code §§ 201-204, inclusive, 226, 226.7, 510, 512, 1174, 1194, 1198 and 2699, and California  
19 Code of Civil Procedure § 1021.5.

20 9. This Court also has jurisdiction over the Representative Plaintiff and Class Members'  
21 claims for injunctive relief and restitution of ill-gotten benefits arising from Defendants' unfair,  
22 unlawful, and/or fraudulent business practices under California Business & Professions Code  
23 § 17200, *et seq.*

24 10. Venue as to Defendants is proper in this judicial district pursuant to California Code  
25 of Civil Procedure § 395(a). Defendants maintain a location within San Bernardino County, transact  
26 business, have agents, and are otherwise within this Court's jurisdiction for purposes of service of  
27 process. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated  
28

1 within the State of California and County of San Bernardino. Defendants operate a facility and have  
2 employed numerous Class Members in the County of San Bernardino.

3 **PLAINTIFFS**

4 11. Plaintiff is a natural person and was, during the relevant time period identified herein,  
5 employed by Defendants as a non-exempt distribution warehouse worker at Defendants' California  
6 warehouse.

7 12. At all times herein relevant, Plaintiff was and is now an individual within the Class of  
8 persons further described and defined herein.

9 13. As used throughout this Complaint, the term "Class Members" and/or the "Plaintiff  
10 Class" refers to the named Plaintiff herein as well as each and every person eligible for membership  
11 in the class of persons further described and defined herein.

12 14. Plaintiff brings this action on behalf of herself and as a class action, pursuant to  
13 California Code of Civil Procedure § 382, on behalf of all persons similarly situated and proximately  
14 damaged by the unlawful conduct described herein.

15 **DEFENDANTS**

16 15. At all times herein relevant, Defendant Crocs, Inc. was/is a corporation and/or other  
17 form of business entity, duly licensed, located and doing business in, but not limited to, the County  
18 of San Bernardino, in the State of California.

19 16. At all times herein relevant, Defendant Intellisource, LLC was/is a limited liability  
20 company and/or other form of business entity, duly licensed, located and doing business in, but not  
21 limited to, the County of San Bernardino, in the State of California.

22 17. Plaintiff is informed and believes and, based thereon, alleges that Defendants directly  
23 or indirectly employs and have employed and/or exercised control over the wages, hours and  
24 working conditions of Plaintiff and Class Members within one or more California counties,  
25 including, but not limited to, the County of San Bernardino.

26 18. Those Defendants identified as Does 1 through 100, inclusive, are and were, at all  
27 relevant times herein-mentioned, business affiliates, successors- and/or predecessors-in-interest,  
28 officers, directors, partners, and/or managing agents of some or each of the remaining defendants.

1 Plaintiff is informed and believes and, on that basis, alleges that, at all relevant times herein-  
2 mentioned, each of the defendants identified as Does 1 through 100, inclusive, employed, and/or  
3 exercised control over the wages, hours, and/or working conditions of Plaintiff and Class Members  
4 at one or more California locations, as identified in the preceding paragraph.

5 19. Plaintiff is unaware of the true names and capacities of those defendants sued herein  
6 as Does 1 through 100, inclusive and, therefore, sues these Defendants by such fictitious names.  
7 Plaintiff will seek leave of court to amend this Complaint when such names are ascertained. Plaintiff  
8 is informed and believes and, on that basis, alleges that each of the fictitiously-named defendants  
9 is/was responsible in some manner for, gave consent to, ratified, and/or authorized the conduct  
10 herein-alleged and that Plaintiff and Class Members' damages, as herein-alleged, were proximately  
11 caused thereby.

12 20. Plaintiff is informed and believes and, on that basis, alleges that, at all relevant times  
13 herein-mentioned, each of the Defendants was the agent and/or employee of each of the remaining  
14 Defendants and, in doing the acts herein alleged, was acting within the course and scope of such  
15 agency and/or employment.

16 **CLASS ACTION ALLEGATIONS**

17 21. Plaintiff brings this action on behalf of herself and as a class action on behalf of the  
18 following Plaintiff Class:

19 *All persons who are and/or were employed as non-exempt distribution warehouse*  
20 *workers by Crocs, Inc. and/or Intellisource, LLC, in one or more of Defendants'*  
21 *California distribution warehouses between March 4, 2011 and the present.*

22 22. Defendants and their officers and directors are excluded from the Plaintiff Class.

23 23. This action has been brought and may properly be maintained as a class action under  
24 California Code of Civil Procedure § 382 because there is a well-defined community of interest in  
the litigation and the proposed Class is easily ascertainable.

25 a. Numerosity: A class action is the only available method for the fair and  
26 efficient adjudication of this controversy. The members of the Plaintiff Class  
27 are so numerous that joinder of all members is impractical, if not impossible,  
28 insofar as the Plaintiff is informed and believes and, on that basis, alleges that  
the total number of Class Members are, at least, in the hundreds of  
individuals. Membership in the Class will be determined by and upon  
analysis of employee and payroll records, among other records maintained by  
Defendants.

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- b. Commonality: Plaintiff and the Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:
- 1) Whether Defendants violated California Labor Code §§ 226.7 and/or 512 by failing to consistently provide duty-free meal and/or rest periods to its non-exempt warehouse employees;
  - 2) Whether Defendants violated applicable IWC Wage Order(s) and/or California Labor Code § 510 by failing to pay all (including overtime) compensation to its non-exempt warehouse employees who worked in excess of forty hours per week and/or eight hours per day;
  - 3) Whether Defendants violated California Labor Code § 1174 by failing to keep accurate records of Plaintiff and Class Members' hours of work;
  - 4) Whether Defendants violated California Labor Code §§ 201-204 by failing to pay all wages due and owed during the pendency of employment and/or at the time of the termination of employment with Defendants of Plaintiff and/or Class Members;
  - 5) Whether Defendants violated applicable IWC Wage Order(s) and/or California Labor Code § 221 by deducting wages already earned from Plaintiff and Class Members for failure to meet daily production quotas;
  - 6) Whether Defendants violated California Labor Code § 226 by failing to provide Plaintiff and Class Members with semimonthly itemized statements including total hours worked and all applicable hourly rates in effect during the pay period; and
  - 7) Whether Defendants violated Business and Professions Code §§ 17200, *et seq.* by engaging in unfair, unlawful and/or fraudulent business practices.
- c. Typicality: Plaintiff's claims are typical of the claims of the Plaintiff Class. Plaintiff and all members of the Plaintiff Class sustained damages arising out of and caused by Defendants' common course of conduct in violation of law, as alleged herein.
- d. Adequacy of Representation: Plaintiff in this class action is an adequate representative of the Plaintiff Class in that Plaintiff's claims are typical of those of the Plaintiff Class and the Plaintiff has the same interest in the litigation of this case as the Class Members. Plaintiff is committed to vigorous prosecution of this case and has retained competent counsel who is experienced in conducting litigation of this nature. Plaintiff is not subject to any individual defenses unique from those conceivably applicable to Class Members as a whole. Plaintiff anticipates no management difficulties in this litigation.
- e. Superiority of Class Action: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member makes or may make it impractical for members of the Plaintiff Class to seek redress individually for

1 the wrongful conduct alleged herein. Should separate actions be brought, or  
2 be required to be brought, by each individual member of the Plaintiff Class,  
3 the resulting multiplicity of lawsuits would cause undue hardship and  
4 expense for the Court and the litigants. The prosecution of separate actions  
5 would also create a risk of inconsistent rulings which might be dispositive of  
6 the interests of other Class Members who are not parties to the adjudications  
7 and/or may substantially impede their ability to adequately protect their  
8 interests.

9 **COMMON FACTUAL ALLEGATIONS**

10 24. Defendants have, for years, knowingly failed to properly compensate Plaintiff and the  
11 Plaintiff Class for all wages earned and due (including, but not necessarily limited to, overtime  
12 wages and/or compensation for missed meal and/or rest periods). Defendants have declined to pay  
13 these wages, even upon a Class Member's termination or resignation from employment, in blatant  
14 violation of California Labor Code §§ 201-204, inclusive. More than 30 days have passed since  
15 certain Class Members have left Defendants' employ. Moreover, Defendants have failed to provide  
16 Plaintiff and the Plaintiff Class with net ten minute rest periods for work shifts exceeding four hours  
17 or a major fraction thereof, and has failed to provide uninterrupted, unrestricted meal periods of at  
18 least 30 minutes for work shifts exceeding five hours and second meal periods for shifts exceeding  
19 ten hours.

20 25. Defendants also failed to provide Plaintiff and Class Members with accurate  
21 semimonthly itemized statements of the total number of hours worked by each, and all applicable  
22 hourly rates in effect during each pay period, in violation of California Labor Code § 226. In doing  
23 so, Defendants have not only failed to pay their workers the full amount of compensation due, they  
24 have, until now, effectively shielded themselves from their employees' scrutiny for their unlawful  
25 conduct by concealing the magnitude (e.g., the full number of hours worked) and financial impact of  
26 their wrongdoing.

27 26. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,  
28 Plaintiff and Class Members have sustained damages, as described above; including loss of earnings  
for uncompensated hours worked, missed meal and rest periods, and unlawful wage deductions, in  
an amount to be established at trial. As a further direct and proximate result of Defendants' unlawful  
conduct, as set forth herein, Plaintiff and Class Members are entitled to recover penalties/wages  
(pursuant to California Labor Code §§ 201-204) for failure to provide semimonthly itemized wage

1 statements of hours worked and all applicable hourly rates (pursuant to California Labor Code § 226)  
2 in an amount to be established at trial. As a further direct and proximate result of Defendants'  
3 unlawful conduct, as set forth herein, Plaintiff and Class Members are also entitled to recover  
4 attorneys' fees, litigation costs, and restitution of ill-gotten gains, pursuant to statute.

5 27. Plaintiff complied with the procedures for bringing suit specified in California Labor  
6 Code § 2699.3. By letter dated March 4, 2015, Plaintiff gave written notice, by certified mail, to the  
7 Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of  
8 the California Labor Code alleged to have been violated, including the facts and theories to support  
9 those violations.

10 **FIRST CAUSE OF ACTION**  
11 **FAILURE TO PROVIDE MEAL AND REST PERIODS**  
12 **(California Labor Code §§ 226.7 and 512)**

13 28. Plaintiff incorporates in this cause of action each and every allegation of the  
14 preceding paragraphs, with the same force and effect as though fully set forth herein.

15 29. At all relevant times, Defendants were aware of and were under a duty to comply  
16 with California Labor Code §§ 226.7 and 512.

17 30. California Labor Code §226.7 provides:

- 18 (a) No employer shall require any employee to work during any  
19 meal or rest period mandated by an applicable order of the  
20 Industrial Welfare Commission.  
21 (b) If an employer fails to provide an employee a meal period or  
22 rest period in accordance with an applicable order of the  
23 Industrial Welfare Commission, the employer shall pay the  
24 employee one additional hour of pay at the employee's  
25 regular rate of compensation for each work day that the meal  
26 or rest period is not provided.

27 31. Moreover, California Labor Code § 512 provides:

28 An employer may not employ an employee for a work period of more than five hours  
per day without providing the employee with a meal period of not less than 30  
minutes, except that if the total work period per day of the employee is no more than  
six hours, the meal period may be waived by mutual consent of both the employer  
and employee. An employer may not employ an employee for a work period of more  
than 10 hours per day without providing the employee with a second meal period of  
not less than 30 minutes, except that if the total hours worked is no more than 12  
hours, the second meal period may be waived by mutual consent of the employer and  
the employee only if the first meal period was not waived.

1           32.     By failing to consistently provide uninterrupted and unrestricted meal and rest periods  
2 to Class Members, Defendants violated California Labor Code §§ 226.7 and/or 512, and §§ 11 and  
3 12 of the IWC Wage Order No. 7.

4           33.     Section 11 of this Wage Order provides:

5                   (A)     No employer shall employ any person for a work period of more than  
6 five (5) hours without a meal period of not less than 30 minutes ....

7                   (B)     An employer may not employ an employee for a work period of more  
8 than ten (10) hours per day without providing the employee with a second  
9 meal period of not less than 30 minutes ....

10                  (C)     If an employer fails to provide an employee a meal period in  
11 accordance with the applicable provisions of this order, the employer shall  
12 pay the employee one (1) hour of pay at the employee's regular rate of  
13 compensation for each workday that the meal period is not provided.

14           34.     Moreover, Section 12 of this Wage Order provides:

15                   (A)     Every employer shall authorize and permit all employees to take rest  
16 periods, which insofar as practicable shall be in the middle of each work  
17 period. The authorized rest period time shall be based on the total hours  
18 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or  
19 major fraction thereof ....

20                   (B)     If an employer fails to provide an employee a rest period in  
21 accordance with the applicable provisions of this order, the employer shall  
22 pay the employee one (1) hour of pay at the employee's regular rate of  
23 compensation for each workday that the rest period is not provided.

24           35.     By failing to consistently provide uninterrupted meal breaks of no less than thirty-  
25 minutes, and/or ten-minute rest periods to Class Members, Defendants violated California Labor  
26 Code and IWC Wage Order provisions.

27           36.     Defendants' mandatory security checks and production quotas infringed on Plaintiff  
28 and putative Class Members' meal and rest breaks. As a result of the time spent undergoing security  
checks and the requirements of Defendants' production quotas, employees were denied the full  
period for meal and/or rest breaks, in violation of applicable law.

          37.     Plaintiff is informed and believes and, on that basis, alleges that Defendants have  
never paid the one hour of compensation to any Class Member due to their violations of the  
California Labor Code and applicable IWC Wage Order provisions.

1 38. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,  
2 Plaintiff and Class Members have sustained damages, including lost compensation resulting from  
3 missed meal and/or rest periods, in an amount to be established at trial. As a further direct and  
4 proximate result of Defendants' unlawful conduct, as set forth herein, certain Class Members are  
5 entitled to recover "waiting time" and other penalties, in amounts to be established at trial, as well as  
6 attorneys' fees and costs, and restitution, pursuant to statute.

7 **SECOND CAUSE OF ACTION**  
8 **UNLAWFUL FAILURE TO PAY WAGES**  
9 **(Violation of IWC Wage Order and Labor Code §§ 200-204, 510, 1194, and 1198)**

10 39. Plaintiff incorporates in this cause of action each and every allegation of the  
11 preceding paragraphs, with the same force and effect as though fully set forth herein.

12 40. During the Class Period and continuing through the present, Plaintiff and Class  
13 Members performed work for Defendants, oftentimes in excess of eight hours in a workday and/or  
14 forty hours in a workweek. The precise number of hours will be proven at trial.

15 41. During the Class Period, Defendants refused to compensate Plaintiff and Class  
16 Members for all of the wages earned, in violation of the applicable IWC Wage Order and provisions  
17 of the California Labor Code.

18 42. Defendants refused to compensate employees for time spent undergoing mandatory  
19 security checks after employees clocked out at the end of a shift or at the beginning of a meal or rest  
20 break. To date, employees have never been compensated for time spent in these security checks.

21 43. Similarly, Defendants refused to compensate employees for missed breaks when  
22 security checks and/or production quotas caused employees to receive less than 30 minutes for meal  
23 breaks or 10 minutes for rest breaks.

24 44. Moreover, during the Class Period, many of the Class Members herein were  
25 employed by and thereafter terminated or resigned from their positions with Defendants, yet were  
26 not paid all wages due upon said termination or within 72 hours of said resignation of employment  
27 therefrom. Said non-payment of all wages due was the direct and proximate result of a willful refusal  
28 to do so by Defendants.

1 45. At all relevant times, Defendants were aware of, and were under a duty to comply  
2 with, the wage (including overtime wage) provisions of the California Labor Code including, but not  
3 limited to, California Labor Code §§ 200-204, 510, 1194 and 1198.

4 46. California Labor Code § 510, in pertinent part, provides:

5 Any work in excess of eight hours in one workday and any work in excess of 40  
6 hours in any one workweek and the first eight hours worked on the seventh day of  
7 work in any one workweek shall be compensated at the rate of no less than one and  
one-half times the regular rate of pay for an employee ...

8 47. California Labor Code § 1194, in pertinent part, provides:

9 Notwithstanding any agreement to work for a lesser wage, any employee receiving  
10 less than the legal minimum wage or the legal overtime compensation applicable to  
11 the employee is entitled to recover in a civil action the unpaid balance of the full  
amount of this minimum wage or overtime compensation, including interest thereon,  
reasonable attorney's fees, and costs of suit.

12 48. Finally, California Labor Code § 1198, in pertinent part, provides:

13 The maximum hours of work and the standard conditions of labor fixed by the  
14 commission shall be the maximum hours of work and the standard conditions of  
15 labor for employees. The employment of any employee for longer hours than those  
fixed by the order or under conditions of labor prohibited by the order is unlawful.

16 49. Numerous Class Members were employed by Defendants during the class period and  
17 were thereafter terminated or resigned from their positions, yet they were not paid all premium  
18 (overtime) wages due upon said termination or within 72 hours of said resignation of employment  
19 therefrom. Said non-payment was the direct and proximate result of a willful refusal to do so by  
20 Defendants.

21 50. More than thirty days have elapsed since certain Class Members were involuntarily  
22 terminated or voluntarily resigned from Defendants' employ.

23 51. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,  
24 Plaintiff and the Plaintiff Class have sustained damages, including loss of earnings for hours of  
25 overtime worked on behalf of Defendants, in an amount to be established at trial. As a further direct  
26 and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff and the Plaintiff  
27 Class are entitled to recover penalties (including "waiting time" penalties of up to thirty days' wages,  
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1 pursuant to California Labor Code § 203) in amounts to be established at trial, as well as attorneys'  
2 fees and costs, and restitution, pursuant to statute.

3 **THIRD CAUSE OF ACTION**  
4 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**  
5 **(California Labor Code §§ 226 and 1174)**

6 52. Plaintiff incorporates in this cause of action each and every allegation of the  
7 preceding paragraphs, with the same force and effect as though fully set forth herein.

8 53. California Labor Code § 226(a) provides:

9 Each employer shall semi-monthly, or at the time of each payment of wages, furnish  
10 each of his or her employees either as a detachable part of the check, draft or voucher  
11 paying the employee's wages, or separately when wages are paid by personal check  
12 or cash, an itemized wage statement in writing showing: (1) gross wages earned; (2)  
13 total number of hours worked by each employee whose compensation is based on an  
14 hourly wage; (3) all deductions, provided that all deductions made on written orders  
15 of the employee may be aggregated and shown as one item; (4) net wages earned; (5)  
16 the inclusive date of the period for which the employee is paid; (6) the name of the  
17 employee and his or her social security number; and (7) the name and address of the  
18 legal entity which is the employer.

19 54. Moreover, California Labor Code § 226(e) provides:

20 An employee suffering injury as a result of a knowing and intentional failure by an  
21 employer to comply with subdivision (a) is entitled to recover the greater of all actual  
22 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs  
23 and one hundred dollars (\$100) per employee for each violation in a subsequent pay  
24 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is  
25 entitled to an award of costs and reasonable attorney's fees.

26 55. Finally, California Labor Code § 1174(d) provides:

27 Every person employing labor in this state shall ... [k]eep, at a central location in the  
28 state ... payroll records showing the hours worked daily by and the wages paid to ...  
employees .... These records shall be kept in accordance with rules established for  
this purpose by the commission, but in any case shall be kept on file for not less than  
two years.

56. Defendants have failed to provide timely, accurate itemized wage statements to the  
Plaintiff and Class Members in accordance with California Labor Code § 226. Plaintiff is informed  
and believes and, on that basis, alleges that none of the statements provided by Defendants  
accurately reflected actual gross wages earned, net wages earned, or the appropriate deductions for  
any Class Member.

1 57. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,  
2 Plaintiff and the Plaintiff Class are entitled to recover penalties, in amounts to be established at trial,  
3 as well as attorneys' fees and costs, pursuant to statute.

4 **FOURTH CAUSE OF ACTION**  
5 **UNLAWFUL DEDUCTION OF WAGES**  
6 **(Violation of IWC Wage Order and California Labor Code § 221)**

7 58. Plaintiff incorporates in this cause of action each and every allegation of the  
8 preceding paragraphs, with the same force and effect as though fully set forth herein.

9 59. California Labor Code § 221 provides:

10 It shall be unlawful for any employer to collect or receive from an employee any part  
11 of wages theretofore paid by said employer to said employee.

12 60. IWC Wage Order § 8 provides:

13 No employer shall make any deduction from the wage or require any reimbursement  
14 from an employee for any cash shortage, breakage, or loss of equipment, unless it  
15 can be shown that the shortage, breakage, or loss is caused by a dishonest or willful  
16 act, or by the gross negligence of the employee.

17 61. During the Class Period, Defendants unlawfully deducted wages already earned from  
18 Plaintiff and Class Members when these workers failed to meet their daily production quotas. By  
19 making these unlawful deductions, Defendants violated the Labor Code and Wage Order sections  
20 cited herein.

21 62. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,  
22 Plaintiff and the Plaintiff Class have sustained damages, including loss of wages already earned but  
23 misappropriated by Defendants, in an amount to be established at trial.

24 **FIFTH CAUSE OF ACTION**  
25 **UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT**  
26 **(California Business & Professions Code §§ 17200-17208)**

27 63. Plaintiff incorporates in this cause of action each and every allegation of the  
28 preceding paragraphs, with the same force and effect as though fully set forth herein.

64. Plaintiff further brings this cause of action seeking equitable and injunctive relief to  
stop Defendants' misconduct, as complained of herein, and to seek restitution of the amounts

1 Defendants acquired through the unfair, unlawful, and fraudulent business practices described  
2 herein.

3 65. Defendants' knowing conduct, as alleged herein, constitutes an unlawful and/or  
4 fraudulent business practice, as set forth in California Business & Professions Code §§ 17200-  
5 17208. Specifically, Defendants conducted business activities while failing to comply with the legal  
6 mandates cited herein.

7 66. Defendants' knowing failure to adopt policies in accordance with and/or adhere to  
8 these laws, all of which are binding upon and burdensome to their competitors, engenders an unfair  
9 competitive advantage for Defendants, thereby constituting an unfair business practice under  
10 California Business & Professions Code §§ 17200-17208.

11 67. Defendants have clearly established a policy of accepting a certain amount of  
12 collateral damage, as represented by the damages to the Plaintiff and to Class Members herein  
13 alleged, as incidental to their business operations, rather than accept the alternative costs of full  
14 compliance with fair, lawful, and honest business practices, ordinarily borne by its responsible  
15 competitors and as set forth in legislation and the judicial record.

16 **SIXTH CAUSE OF ACTION**  
17 **PRIVATE ATTORNEYS GENERAL ACT CLAIM**  
18 **(California Labor Code §§ 2699)**

19 68. Plaintiff incorporates in this cause of action each and every allegation of the  
20 preceding paragraphs, with the same force and effect as though fully set forth herein.

21 69. California Labor Code § 2699(a) states:

22 Notwithstanding any other provision of the law, any provision of this code that  
23 provides for a civil penalty to be assessed and collected by the Labor and Workforce  
24 Development Agency or any of its departments, divisions, commissions, boards,  
25 agencies, or employees, for a violation of this code, may, as an alternative, be  
26 recovered through a civil action brought by an aggrieved employee on behalf of  
27 herself or herself and other current or former employees...

28 70. Plaintiff (and each and every other Class Member) is an "aggrieved employee," as  
defined by California Labor Code § 2699(c), because she was employed by Defendants and was one  
of many employees against whom violations of law were committed.

71. Plaintiff has met and/or will meet all of the requirements set forth in California  
Labor Code § 2699.3 necessary to maintain a civil action against Defendants for violations of

1 (and/or recovery under) California Labor Code §§ 200-204, inclusive, 221, 226, 226.7, 510, 512,  
2 1174, 1194, 1194.2, 1197, and/or 1198.

3 72. Plaintiff brings this action on behalf of herself and all Class Members alleging  
4 violations of the California Labor Code sections cited in the preceding paragraph.

5 73. As a direct and proximate result of Defendants' unlawful conduct, as set forth  
6 herein, Plaintiff and Class Members have sustained damages, including loss of earnings, in an  
7 amount to be established at trial.

8 74. As a further direct and proximate result of Defendants' unlawful conduct, as set  
9 forth herein, Plaintiff and Class Members are entitled to recover various penalties as provided by  
10 California Labor Code § 2699, in an amount to be established at trial, as well as costs and attorneys'  
11 fees, pursuant to statute.

12 **RELIEF SOUGHT**

13 **WHEREFORE**, the Representative Plaintiff, on behalf of herself and the proposed Plaintiff  
14 Class, prays for judgment and the following specific relief against Defendants, and each of them,  
15 jointly and separately, as follows:

16 1. That the Court declare, adjudge, and decree that this action is a proper class action  
17 and certify the proposed Class and/or any other appropriate subclasses pursuant to California Code  
18 of Civil Procedure § 382;

19 2. That the Court make an award to Plaintiff and Class Members of one hour of wages at  
20 each employee's regular rate of compensation for each duty-free, uninterrupted meal period that was  
21 not provided;

22 3. That the Court make an award to Plaintiff and Class Members of one hour of wages at  
23 each employee's regular rate of compensation for each workday that a duty-free, uninterrupted rest  
24 period was not provided;

25 4. That the Court declare, adjudge, and decree that Defendants violated the wage  
26 (including overtime wage) provisions of the California Labor Code and the applicable California  
27 Industrial Welfare Commission Wage Order as to the Plaintiff and Class Members;

28

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1           5.       That the Court declare, adjudge, and decree that Plaintiff and Class Members were, at  
2 all times relevant herein, and are still, entitled to be paid overtime for work beyond eight hours in a  
3 day and forty hours in a week;

4           6.       That the Court make an award to the Plaintiff and Class Members of damages and/or  
5 restitution for the amount of unpaid overtime compensation, including interest thereon, and penalties  
6 in an amount to be proven at trial;

7           7.       That the Court make an award to the Plaintiff and Class Members of damages and/or  
8 restitution for the amount of unlawfully deducted wages, including interest thereon, and penalties in  
9 an amount to be proven at trial;

10          8.       That the Court order Defendants to pay restitution to Plaintiff and Class Members due  
11 to Defendants' unlawful activities, pursuant to California Business and Professions Code §§ 17200-  
12 17208;

13          9.       That the Court further enjoin Defendants, ordering them to cease and desist from  
14 unlawful activities in violation of California Business and Professions Code §§ 17200, *et seq.*;

15          10.       For all other Orders, findings and determinations identified and sought in this  
16 Complaint;

17          11.       For interest on the amount of any and all economic losses at the prevailing legal rate;

18          12.       For reasonable attorneys' fees, pursuant to California Labor Code §§1194 and/or  
19 California Code of Civil Procedure § 1021.5; and,

20          13.       For costs of suit and any and all other such relief as the Court deems just and proper.

21  
22 Dated: March 4, 2015

**SCOTT COLE & ASSOCIATES, APC**

23  
24 By: *Molly A. DeSario*  
25 Molly A. DeSario, Esq.  
26 Attorneys for Representative Plaintiff and  
27 the Plaintiff Class  
28

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**JURY DEMAND**

Plaintiff and the Plaintiff Class hereby demand trial by jury of all issues triable as of right by jury.

Dated: March 4, 2015

**SCOTT COLE & ASSOCIATES, APC**

By: *Molly A. DeSario*  
Molly A. DeSario, Esq.  
Attorneys for Representative Plaintiff and  
the Plaintiff Class