

ENDORSED
FILED
Superior Court of California
County of San Francisco

JUN 15 2011

CLEAK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

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14 and the Plaintiff Class

15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 IN AND FOR THE COUNTY OF SAN FRANCISCO

CGC-11-511748

17 MONICA RODRIGUEZ, individually
18 and on behalf of all others similarly
19 situated,

20 Plaintiffs

21 vs.

22 G4S SECURE SOLUTIONS USA, and
23 DOES 1 through 100, inclusive,

24 Defendants.

Case No.

CLASS ACTION

COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF AND RESTITUTION

[Jury Trial Demanded]

25 Representative Plaintiff alleges as follows:

26 PRELIMINARY STATEMENT

27 1. This is a class action seeking unpaid wages, including meal and rest period
28 compensation, injunctive and other equitable relief, and reasonable attorneys' fees and costs, under,
inter alia, Industrial Welfare Commission Wage Order No. 4, California Labor Code §§ 200-204,
inclusive, 226, 226.7, 510, 512, 1174, 1194, 1197 and 1198, and California Business & Professions
Code § 17200, et seq. Representative Plaintiff Monica Rodriguez ("Rodriguez" and/or

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1 “Representative Plaintiff”) brings this action on behalf of herself and all other persons similarly
2 situated (hereinafter referred to as the “Class Members” and/or the “Plaintiff Class”) who are or have
3 been employed by Defendant G4S Secure Solutions USA and/or Does 1 through 100, inclusive
4 (collectively “G4S” and/or “Defendant”), in any non-exempt security guard position(s) within the
5 State of California, at any time between June 15, 2007 and the date of trial. Representative Plaintiff,
6 on behalf of herself and the Class Members, also seeks injunctive relief and restitution of all benefits
7 G4S has enjoyed from its unfair, unlawful and/or fraudulent business practices under California
8 Business and Professions Code §§ 17200-17208.

9 2. The “Class Period” is designated as the time from June 15, 2007 through the trial
10 date and is based upon the allegation that Defendant’s violations of California’s wage and hour laws,
11 as described more fully below, have been ongoing during that time. During the Class Period, G4S
12 has had a consistent policy of (1) unlawfully denying Representative Plaintiff and the Class
13 Members statutorily-mandated meal and rest periods, (2) willfully failing to pay compensation owed
14 to the Representative Plaintiff and Class Members in a timely manner, including compensation owed
15 to certain Class Members whose employment with G4S has been terminated, and (3) willfully failing
16 to provide Plaintiff and the Class Members with accurate, semimonthly itemized wage statements.

17 18 INTRODUCTION

19 3. The Representative Plaintiff is informed and believes and, based thereon, alleges
20 that, within the Class Period, defendant G4S has employed non-exempt security guards in its own
21 facilities within the State of California and has held contracts with various clients for the placement
22 of Defendant’s non-exempt security guards at third-party facilities within the State of California. In
23 so doing, G4S has employed hundreds of individuals in non-exempt security guard positions in
24 recent years alone to work at locations within the State of California.

25 4. Despite actual knowledge of these facts and California’s legal mandates, G4S has
26 enjoyed an advantage over its competition and imposed a resultant disadvantage upon its workers by
27 electing not to pay its security guards all wages to which they are entitled, not providing them with
28

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PLAINTIFF

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2 10. During the time period relevant herein, Plaintiff Monica Rodriguez is/was a natural
3 person employed by G4S in a non-exempt security guard position and was at various times during
4 the applicable statute of limitations an employee of Defendant in California. Plaintiff was hired and
5 employed by Defendant to perform services as a non-exempt employee in a security guard position
6 in Folsom and Sacramento, California.

7 11. In said position Plaintiff was required to work and did work during the Class Period
8 shifts exceeding five hours without uninterrupted, unrestricted meal periods of not less than 30
9 minutes.

10 12. In said position, Plaintiff was required to work and did work four hours, or a major
11 fraction thereof, without being afforded a net ten minute rest period.

12 13. Representative Plaintiff is informed and believes and, on that basis, alleges that this
13 conduct of G4S is/was commonplace at every California facility at which G4S's security employees
14 worked on its behalf.

15 14. As used throughout this Complaint, the terms "Class Members" and/or the
16 "Plaintiff Class" refer to the named plaintiff herein as well as each and every person eligible for
17 membership in the Plaintiff Class, as further described and defined below.

18 15. At all times relevant herein, Representative Plaintiff was/is a person within the
19 Plaintiff Class further described and defined herein.

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

23
24 **DEFENDANTS**

25 17. At all times relevant herein, Defendant G4S Secure Solutions USA was and is a
26 business entity, duly licensed, located and doing business in, but not limited to, the County of San
27 Francisco, in the State of California.

1 18. Representative Plaintiff is informed and believes and, based thereon, alleges that
2 defendant G4S directly or indirectly employs and, since June 15, 2007, has employed and/or
3 exercised control over the wages, hours and/or working conditions of Representative Plaintiff and
4 the Class Members within various California counties, including, but not necessarily limited to, the
5 County of San Francisco.

6 19. Those defendants identified as Does 1 through 100, inclusive, are and were, at all
7 relevant times herein-mentioned, business affiliates, successors- and/or predecessors-in-interest,
8 officers, directors, partners, and/or managing agents of some/each of the remaining defendants. The
9 Representative Plaintiff is informed and believes and, on that basis, alleges that, at all times herein
10 relevant, each of the defendants identified as Does 1 through 100, inclusive, employed and/or
11 exercised control over the wages, hours and/or working conditions of Representative Plaintiff and
12 the Class Members at various California locations, as identified in the preceding paragraph.

13 20. Representative Plaintiff is unaware of the true names and capacities of those
14 defendants sued herein as Does 1 through 100, inclusive and, therefore, sues these defendants by
15 such fictitious names. Representative Plaintiff will seek leave of court to amend this Complaint when
16 same are ascertained. Representative Plaintiff is informed and believes and, on that basis, alleges that
17 each of the fictitiously-named defendants is responsible in some manner for, gave consent to, ratified
18 and/or authorized the conduct herein alleged, and that Representative Plaintiff's and the Class
19 Members' damages, as herein alleged, were proximately caused thereby.

20 21. The Representative Plaintiff is informed and believes and, on that basis, alleges
21 that, at all times herein relevant, each of the defendants was and/or is the agent and/or employee of
22 each of the remaining defendants and, in doing the acts herein alleged, was acting within the course
23 and scope of such agency and/or employment.

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CLASS ACTION ALLEGATIONS

26 22. Representative Plaintiff brings this action on behalf of herself and as a class action
27 on behalf of the following Plaintiff Class:

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1 All persons who were employed by G4S Secure Solutions USA in any
2 non-exempt security guard position within the State of California, at any
3 time between June 15, 2007 and the date of trial.

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

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

8 a. Commonality: Representative Plaintiff and the Class Members share a
9 community of interests in that there are numerous common questions and
10 issues of fact and law which predominate over any questions and issues
solely affecting individual members, including, but not necessarily limited to:

11 i. Whether G4S violated California Labor Code §§ 201-204 by failing
12 to pay all wages due and owed during the pendency of employment
13 and/or at the time of the termination of employment with Defendant
of Representative Plaintiff and/or Class Members;

14 ii. Whether the Representative Plaintiff and Class Members are entitled
15 to "waiting time" penalties pursuant to California Labor Code §§ 203
and/or 204;

16 iii. Whether G4S violated California Labor Code § 226 by failing to
17 provide accurate, semimonthly itemized wage statements to Class
18 Members of the total hours worked by each and all applicable hourly
rates in effect during each relevant pay period;

19 iv. Whether G4S violated California Labor Code § 226.7 by failing to
20 consistently provide duty-free rest periods to its employees;

21 v. Whether G4S violated California Labor Code § 512 by failing to
22 consistently provide duty-free meal periods to its employees;

23 vi. Whether G4S violated California Labor Code § 1174 by failing to
24 keep accurate records of employees' hours of work;

25 vii. Whether G4S violated California Labor Code § 1197 by failing to
26 compensate the Representative Plaintiff and the Plaintiff Class for all
hours worked at the applicable minimum wage;

27 viii. Whether G4S violated California Business and Professions Code §§
28 17200, *et seq.* by engaging in unfair, unlawful and/or fraudulent
business practices.

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- b. Typicality: The Representative Plaintiff's claims are typical of the claims of the Plaintiff Class. Representative Plaintiff and all members of the Plaintiff Class sustained damages arising out of and caused by Defendant's common course of conduct in violation of law, as alleged herein.

- c. Numerosity: A class action is the only available method for the fair and efficient adjudication of this controversy. The members of the Plaintiff Class are so numerous that joinder of all members is impractical, if not impossible, insofar as the Representative Plaintiff is informed and believes and, on that basis, alleges that the total number of Class Members is, at least, in the thousands of individuals. Membership in the Class will be determined by and upon analysis of employee and payroll records, among other records maintained by G4S.

- d. Adequacy of Representation: The Representative Plaintiff in this class action is an adequate representative of the Plaintiff Class, in that the Representative Plaintiff's claims are typical of those of the Plaintiff Class and the Representative Plaintiff has the same interests in the litigation of this case as the Class Members. The Representative Plaintiff is committed to vigorous prosecution of this case and has retained competent counsel, experienced in conducting litigation of this nature. The Representative Plaintiff is not subject to any individual defenses unique from those conceivably applicable to the Plaintiff Class as a whole. The Representative 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 the wrongful conduct alleged herein. Should separate actions be brought or be required to be brought by each individual member of the Plaintiff Class, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants. The prosecution of separate actions would also create a risk of inconsistent rulings, which might be dispositive of the interests of other Class Members who are not parties to the adjudications and/or may substantially impede their ability to adequately protect their interests.

COMMON FACTUAL ALLEGATIONS

25. G4S has, for years, knowingly failed to properly compensate the Class Members for all unpaid wages due and owed to them. G4S has failed to provide them with net ten minute rest periods for work shifts exceeding four hours or a major fraction thereof, and has failed to provide uninterrupted, unrestricted meal periods of not less than 30 minutes for work shifts exceeding five hours. G4S has declined to pay these wages, even upon a Class Member's termination or resignation from employment, in blatant violation of California Labor Code §§ 201 and/or 202.

1 30. At all relevant times, Defendant was aware of and was under a duty to comply with
2 California Labor Code §§ 226.7 and 512.

3 31. California Labor Code §§ 226.7 provides:

4 (a) No employer shall require any employee to work during any meal or
5 rest period mandated by an applicable order of the Industrial Welfare
6 Commission.

7 (b) If an employer fails to provide an employee a meal period or rest
8 period in accordance with an applicable order of the Industrial Welfare
9 Commission, the employer shall pay the employee one additional hour of pay
10 at the employee's regular rate of compensation for each work day that the
11 meal or rest period is not provided.

12 32. Moreover, California Labor Code § 512 provides:

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

23 33. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that
24 employers provide all applicable meal and/or rest periods to non-exempt employees.

25 34. Section 11 of the applicable IWC Wage Order provides:

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

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

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

35. Moreover, Section 12 of the applicable IWC Wage Order provides:

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

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

33. By failing to consistently provide uninterrupted and unrestricted meal periods and to provide uninterrupted rest periods to its non-exempt security personnel, Defendant violated California Labor Code §§ 226.7 and/or 512, and §§ 11 and 12 of the applicable IWC Wage Order.

34. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein, Representative Plaintiff and the Class Members have sustained damages, including loss of compensation/wages, in an amount to be established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set forth herein, the Representative Plaintiff and the Class Members are entitled to recover various penalties, in an amount to be established at trial, as well as costs and attorneys' fees, pursuant to statute.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(California Labor Code §§ 226 and 1174)

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

36. California Labor Code § 226(a) provides:

Each employer shall semimonthly, or at the time of each payment of wages, furnish each of his or her employees either as a detachable part of the check, draft or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized wage statement in writing showing: (1) gross wages earned; (2) total number of hours worked by each employee whose compensation is based on an hourly wage; (3) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (4) net wages earned; (5) the inclusive date of the period for which the employee is paid; (6) the

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1 name of the employee and his or her social security number; and (7) the name
2 and address of the legal entity which is the employer.

3 37. The IWC Wage Order also establishes this requirement in § 7(B) thereof (8 Cal.
4 Code Regs. § 11010 *et seq.*).

5 38. Moreover, California Labor Code § 226(e) provides:

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

13 39. Finally, California Labor Code § 1174 provides:

14 Every person employing labor in this state shall: (d) Keep, at a central
15 location in the state... payroll records showing the hours worked daily by and
16 the wages paid to ... employees These records shall be kept in accordance
17 with rules established for this purpose by the commission, but in any case
18 shall be kept on file for not less than two years.

19 40. Representative Plaintiff seeks to recover actual damages, costs and attorneys' fees
20 under this section on behalf of herself and the Class Members.

21 41. Defendant failed to provide timely, accurate itemized wage statements to
22 Representative Plaintiff and the Class Members in accordance with California Labor Code § 226(a)
23 and the applicable IWC Wage Order. None of the statements provided by Defendant has accurately
24 reflected actual gross wages earned, net wages earned or the appropriate deductions for Class
25 Members.

26 42. As a direct and proximate result of Defendant's unlawful conduct, as set forth
27 herein, Representative Plaintiff and the Class Members are entitled to recover penalties, in an
28 amount to be established at trial, as well as costs and attorneys' fees, pursuant to statute.

THIRD CAUSE OF ACTION
FAILURE TO PAY WAGES DUE
(California Labor Code §§ 203-204, 510 and 1198)

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3 43. Representative Plaintiff incorporates in this cause of action each and every
4 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
5 herein.

6 44. California Labor Code § 203 provides, in part:

7 If an employer willfully fails to pay, without abatement or reduction, in
8 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
9 employee who is discharged or who quits, the wages of the employee shall
10 continue as a penalty from the due date thereof at the same rate until paid or
11 until an action therefor is commenced; but the wages shall not continue for
12 more than 30 days.

13 45. California Labor Code § 204 provides, in part:

14 Labor performed between the 1st and 15th days, inclusive, of any calendar
15 month shall be paid for between the 16th and the 26th day of the month
16 during which the labor was performed, and labor performed between the 16th
17 and the last day, inclusive, of any calendar month, shall be paid for between
18 the 1st and 10th day of the following month.

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

20 Any work in excess of eight hours in one workday and any work in excess of
21 40 hours in any one workweek and the first eight hours worked on the
22 seventh day or work in any one workweek shall be compensated at the rate of
23 no less than one and one-half times the regular rate of pay for an employee....

24 47. Finally, California Labor Code § 1198 provides:

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

29 48. Representative Plaintiff and the Class Members were employed by Defendant
30 during the Class Period and did not receive all wages owed in the time dictated by California Labor
31 Code § 204. Moreover, Representative Plaintiff and certain Class Members voluntarily or
32 involuntarily severed employment with G4S, yet were not paid timely wages due immediately upon

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1 the involuntary termination or within seventy-two hours of the voluntary termination of their
2 respective employment positions therewith. Said non-payment and/or untimely payment was the
3 direct and proximate result of a willful refusal to do so by Defendant.

4 49. More than 30 days has elapsed since Representative Plaintiff and certain Class
5 Members were terminated and/or resigned from Defendant's employ.

6 50. As a direct and proximate result of Defendant's willful conduct in failing to pay
7 said Representative Plaintiff and Class Members for all hours worked, Representative Plaintiff and
8 certain Class Members are entitled to recover penalties of 30 days' wages, pursuant to California
9 Labor Code § 203, in an amount to be established at trial, together with attorneys' fees and costs.

10 51. During the Class Period, Representative Plaintiff and Class Members were
11 employed by and did perform work for G4S, oftentimes in excess of eight hours in a workday and/or
12 forty hours in a workweek. The precise number of hours will be proven at trial.

13 52. During said time period, Defendant refused and/or failed to compensate
14 Representative Plaintiff and the Class Members for some and/or all of wages earned, in violation of
15 the California Labor Code and the applicable IWC Wage Order.

16 53. By refusing to compensate Representative Plaintiff and the Class Members for all
17 wages earned, Defendant violated those California Labor Code and applicable IWC Wage Order
18 provisions cited herein.

19 54. As a direct and proximate result of Defendant's unlawful conduct, as set forth
20 herein, Representative Plaintiff and the Class Members have sustained damages, including loss of
21 earnings for hours of overtime worked on behalf of Defendant, in an amount to be established at
22 trial.

23
24 **FOURTH CAUSE OF ACTION**
25 **UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT**
26 **(California Business & Professions Code §§ 17200-17208)**

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

1 6. That Defendants are found to have violated California Labor Code § 1197 for
2 failure to pay the applicable minimum wage to Class Members;

3 7. That Defendants are found to have violated Business & Professions Code § 17200,
4 *et seq.* by, *inter alia*, failing to pay the Representative Plaintiff and the Class Members all
5 compensation for meal and/or rest periods denied, and by failing to pay penalties to particular Class
6 Members;

7 8. That the Court make an award to the Representative Plaintiff and the Plaintiff Class
8 of damages in the amount of unpaid compensation, including interest thereon, and penalties, in an
9 amount to be proven at trial;

10 9. That Defendants be ordered and enjoined to pay restitution to the Representative
11 Plaintiff and the Class Members due to Defendants' unlawful activities, pursuant to California
12 Business & Professions Code §§ 17200-08, *et seq.*;

13 10. That Defendants further be enjoined to cease and desist from unlawful activities in
14 violation of California Business & Professions Code § 17200, *et seq.*;

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

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

19 13. For reasonable attorneys' fees, pursuant to statute;

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

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JURY DEMAND

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

Dated: June 15, 2011

SCOTT COLE & ASSOCIATES, APC

By: Hannah Salassi
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