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FILED-Rancho Cucamonga District
SUPERIOR COURT
SAN BERNARDINO COUNTY

JAN 18 2002
By *Roxanne R. Rea*
Deputy

6 Attorneys for Plaintiffs, Private Attorney
7 General, Putative Class members and
8 Protected Persons

9 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN BERNARDINO, WEST DISTRICT

11 AL SAUCEDO, FRANK RODRIGUES,)
12 PETER SANTILLI, DEAN SMITH, RON)
13 CARTER, KEVIN ADAMS on behalf of)
14 themselves, as Private Attorney Generals)
15 and for all others similarly situated. Roes 1)
16 to 500, Inclusive)

CASE NO. RCV
060593

CLASS ACTION
COMPLAINT FOR MONETARY AND
INJUNCTIVE RELIEF

15 Plaintiffs
16 Vs.

1. RETALIATORY TERMINATION OR
DISCIPLINE IN VIOLATION OF STATE
LAW.

17 THE COCA-COLA COMPANY;)
18 COCA-COLA ENTERPRISES, INC.; BCI)
19 COCA-COLA BOTTLING COMPANY OF)
20 LOS ANGELES dba COCA-COLA)
21 BOTTLING COMPANY OF SOUTHERN)
22 CALIFORNIA; TERRENCE A. FITCH; SID)
23 CAMPA; MICHAEL PIMMEL; JOSEPH F.)
24 HODGE; LINDA FREGOSO; LAFAYETTE)
25 SHELTON; DEBBY WILLIAMS; MICHAEL)
26 PASQUA; DAN TYRE; MICHAEL)
27 JORDAN; STEVEN SHRIMPLIN;)
28 AND DOES 1 to 100, Inclusive)

2. UNFAIR BUSINESS PRACTICES
ACT VIOLATIONS BUS. & PROF.
§§17200 ET. SEQ.

3. EQUITABLE ESTOPPEL
DEMAND FOR JURY TRIAL

Defendants

1 **GENERAL ALLEGATIONS AS TO ALL CAUSES OF ACTION**

2 Plaintiffs by their attorneys, as individuals, proposed class representatives and
3 private attorney generals, brings this suit on behalf of themselves, and on behalf of all
4 other persons similarly situated, and hereby allege and state as follows:

5 1. This is a class action brought against Defendant companies, and their managing
6 agents (collectively hereinafter referred to as "Coke") on behalf of Plaintiffs and any other
7 employees of defendants who was fired or disciplined for informing the Defendant
8 employer of violations of state law being committed on it's behalf.

9 2. On information and belief this action alleges that Coke and one or more of the
10 Defendants identified herein as Does; (1) improperly and in violation of California State
11 Law terminated or disciplined employees who either reported to the Defendants violations
12 of State Law being committed by Defendant's agents or refused to violate State Law for
13 the Defendant, including the reporting and or refusal to illegally modified employee
14 KRONOS and other time records to reduce the numbers of hours reported worked by
15 employees so as to reduce wages to be paid; (2) thereby violated California's Unfair
16 Business Practices Act, California Business and Professions Code § 17200, et seq. (3)
17 Inflicted severe mental and emotional distress on the Plaintiffs by intentionally and or
18 negligently destroying their careers with the Defendant Company. (4) Lied to and
19 defrauded the Plaintiffs and other former employees by directly or impliedly informing
20 them that their termination or discipline with the Defendant Company was legal when in
21 reality and unknown to the Plaintiffs and each other terminated employee at the time that
22 the termination or discipline was illegal.

23 3. This action seeks relief for the past and current violations of California law,
24 including, inter alia, and to prevent future violations of State Law.

25 (a) Improper termination or discipline of employees in violation of State Law.

26 (b) Damages and/or restitution, as appropriate, to plaintiffs and or members of the
27 classes, and the protected persons of the practices at issue, who have been illegally
28

1 terminated or discipline for reporting to and or refusing to commit violation of state law for
2 the Defendant Company. including exemplary damages where and if appropriate;

3 (c) An Order requiring disgorgement from Coke of all monies wrongfully
4 withheld as a result of the practices alleged herein.

5 (d) Implementation of other equitable and injunctive relief, including, inter alia,
6 reinstatement to their former positions, locations, back wages and benefit level, and or
7 injunction prohibiting Coke from terminating or disciplining employees as alleged above.

8 (e) Interest;

9 (f) Attorneys fees and costs as provide by Statute;

10 (g) and such other relief as the Court deems just and proper.

11 JURISDICTION AND VENUE

12 4. The relief sought by Plaintiffs is subject to the jurisdiction of this Court.

13 5. Venue is proper in this Court because Coke maintains a principal place of business
14 in the State of California in Rancho Cucamonga, County of San Bernardino, California
15 and, upon information and belief, the conduct that gives rise to Coke liability as alleged
16 herein occurred throughout the State of California, including San Bernardino County. The
17 named Plaintiffs earned wages in this District, and suffered offenses of State Law by the
18 Defendants here in Rancho Cucamonga.

19 PARTIES

20 6. Plaintiff is a resident of California is a former employee of Coke and or its
21 subsidiaries in this State and County. Plaintiff Peter T. Santilli is a resident of Rancho
22 Cucamonga, Ca. He worked for the Defendants in this County and that City. He brings
23 this action in his individual capacity on behalf of himself, on behalf of all others similarly
24 situated, and the residents of this State, pursuant to California Business and Professions
25 Code § 17204, on behalf of the general public as Private Attorney Generals. He, Frank
26 Rodrigues, Al Saucedo, Dean Smith, Ron Carter, and Kevin Adams named as the other
27 Plaintiffs, have worked for Coke as both hourly employees and as Mid-level Managers.
28

1 Roes 1 to 500 are individual employees of Coke who may wish to become named
2 Plaintiffs at a later date.

3 7. Defendants The Coca-Cola Company and BCI Coca-Cola Bottling Company of Los
4 Angeles are foreign corporations licensed to do business in this State. Defendant Coke is
5 registered to do business in the State of California under several subsidiaries and dba's
6 such as Coca-Cola Bottling of Southern California. Plaintiffs are informed and believe,
7 and on that basis allege that the number of illegally terminated and or disciplined
8 employees exceed 300. Such numbers are subject to discovery and verification from the
9 Defendants' mandated employment records.

10 8. Coke is, and at all relevant times was, an employer under Industrial Welfare
11 Commission Order No. 7-98 or, prior to January 1, 1998, Industrial Welfare Commission
12 Order No. 7-80 and the Labor Code which includes §1174 and 1175 and Penal Code
13 §484(a). The Defendants herein are the corporations, other entities or managing agents
14 employing the named Plaintiffs and class member/protected persons here in this State.

15 9. The true names and capacity of Defendants sued herein under California Codes of
16 Civil Procedure § 474 as Does 1 through 100, inclusive, are presently not known to
17 Plaintiffs, who therefore sues these Defendants by such fictitious names. Plaintiffs will
18 seek to amend this Complaint and include these Doe Defendants' true names and
19 capacities as soon as they can be reasonably ascertained. Each of the fictitiously named
20 Defendants is a managing agent or other person, responsible in some manner for the
21 conduct alleged herein and for the injuries suffered by the Plaintiff, the members of the
22 class, protected persons and the general public. One or more of such Does are and were
23 residents of the State of California. Defendant MICHAEL PASQUA is a resident of the
24 County of San Bernardino.

25 10. At all times mentioned in the causes of action alleged herein, each and every
26 individual Defendant named in the caption was a "managing agent" and/or employee of
27 each and every other Corporate Defendant. At all relevant times, each and every
28 individual Defendant was acting within the course and scope of this agency or

1 employment and was acting with the consent, confirmation and authorization of each
2 the remaining Defendants, with respect to the allegations set forth herein. All actions of
3 each Defendant as alleged and the cause of action stated herein were ratified and/or
4 approved by every other Defendant or their officers or managing agents.

5 CLASS ACTION ALLEGATIONS

6 11. This action is brought on behalf, as Class one, all persons who were employed by
7 Coke at any time prior to or subsequent to the date of the filing hereof, at one or more of
8 the locations owned and operated by Coke within the State of California and who were
9 illegally terminated from or disciplined in their employment with Coke. All such persons
10 are either putative class members and or protected by Bus. & Prof. Code §17200 et. seq.

11 12. The classes are sufficiently numerous since they are estimated to include the
12 number of employees set forth above, including turnover. The joinder of all of these
13 individuals in one action is impracticable, and the disposition of their claims in a class
14 action will thus provide substantial benefits to both the parties and the Court.

15 13. There is a well-defined community of interest in the questions of law and fact
16 involved affecting the parties and classes to be represented. The questions of law and
17 fact common to the classes predominate over questions that may affect individual class
18 members, including the following:

19 (a) Whether Coke terminated and or disciplined them for reporting to Coke and
20 or other entities Coke's illegal acts.

21 (b) Whether Coke required the class members to engage in illegal acts for Coke
22 and they refused to do so.

23 (c) Whether Coke implemented and engaged in a systematic practice whereby
24 it would improperly and illegally discipline and or terminate its employees who did either
25 (a) and or (b) above.

26 (d) Whether Coke did this to compel other employees to either not report such
27 violations or to commit the actual violations, such as modifying other employees' time
28 records to reduce the payment of overtime to other such employees.

1 (e) Whether Coke negligently and/or intentionally disciplined and or terminated
2 such employee class members and protected persons, including the Plaintiffs.

3 (f) Whether Coke willfully failed to pay all wages due by using such illegal
4 actions.

5 (g) Whether the systematic acts and practices of Coke as alleged herein
6 violated, inter alia, California Labor Code §§ 203, 206.5, 226, 1174, 1175 and or 1194,
7 Industrial Welfare Commission Orders No. 7-01, 7-98 and 7-80, and or California
8 Business and Professions Code § 17200, et seq and or Penal Code §484.

9 14. Because Plaintiffs and others were told by Coke that they were "at will" employees
10 and could be disciplined or terminated at any time for any reason, and because they
11 reasonably relied on this misrepresentation, they did not previously file claims and or suits
12 for Coke's illegal acts and therefore Plaintiffs, having recently learned the truth, is
13 asserting claims that are typical of the claims of the entire class or the entire period of
14 time since they may have been illegally terminated but did not know the truth.

15 15. Plaintiffs in each class will fairly and adequately represent and protect the interests
16 of the class in that they have no disabling conflicts of interest that would be antagonistic
17 to those of the other members of the class. Plaintiffs have retained counsel who are
18 competent and experienced in the prosecution of employment class action litigation, and
19 in overtime wage class action litigation in particular, including previous cases against
20 Coke, Rite Aid Drugs Stores, Ross Dress for Less Stores, Factory to U and 20 other class
21 action cases. Those Coke employees who have previously settled litigation or State
22 claims with Coke for wages and overtime are excluded from the defined classes herein.

23 16. Plaintiffs, the members of the classes and protected persons have all similarly
24 suffered irreparable harm and damages as a result of Coke's unlawful and wrongful
25 conduct. Coke's systematic discipline and or terminations makes class treatment
26 especially appropriate. This action will provide substantial injunctive and monetary
27 benefits to both the classes and the public since, absent this action, Coke's unlawful
28 conduct could continue unremediated and uncorrected.

OPERATIVE FACTS

1
2 17. Coke owns and operates a bottling and distribution system to deliver Coke
3 products to various retailers located within the state of California. Coke products are sold
4 and distributed to discount chain stores, supermarkets, gas stations, small grocery stores,
5 restaurants, fast food chains and other public venues.

6 18. The soft drink beverage industry is very competitive, and continues to become
7 more so as new brands are introduced into the market. Market share necessarily
8 decreases in the face of competition from other beverage manufacturers. Thus, profits
9 are squeezed because costs and overhead are relatively fixed.

10 19. Payment of overtime hours directly affects Coke's profit margins.

11 20. The labor practices and all other aspects of operation of each Coke distribution
12 center, as well as the job duties of its employees are stringently controlled by uniform
13 standards established by Coke that are monitored closely by regional and senior
14 managing agents of Coke. Coke requires many illegal acts including but not limited to
15 illegal deduction of hours worked by hourly employees so they can avoid payment of
16 wages and overtime.

17 21. The Plaintiffs and class member/protected employees were forced to either violate
18 the law for Coke or retaliated for reporting such violations, and or refusing to engage in
19 such violations.

20 22. Plaintiffs, class members and protected persons were and are reasonably afraid of
21 termination, discipline and destruction of their careers if they acted contrary to Coke's
22 wishes.

23 23. In order to reduce its labor costs, Coke orders illegal deletion of records showing
24 hours worked. Further, and without lawful consent the Plaintiffs and class
25 member/protected persons were and or are ordered, upon threat of discipline and or
26 termination, and loss of tens of thousands of dollars of future wages, to modify other
27 hourly employee time records within the Kronos and other systems to reduce the number
28 of overtime hours actually worked by the employees so as to reduce the overtime wages

1 paid each and every week, for more than the last four years and continuing now. When
2 Plaintiffs and others refused to do so, and or told Coke that this was illegal they were
3 terminated, demoted are otherwise disciplined.

4 24. During all times relevant to this action, such illegal acts by Coke gave them an
5 unfair competitive advantage, resulted in the loss of hundreds of millions or dollars in
6 wages and benefits, and destroyed hundreds of careers with Coke.

7 25. Upon information and belief, Coke knew such threats and actual discipline and or
8 terminations were illegal but committed such acts anyway.

9 26. Although California Labor Code § 1174 mandates that every employer shall keep
10 on file, for not less than two years, records of the actual hours worked each day by each
11 employee, and although California Labor Code § 1175 provides that each failure to
12 comply with § 1174 is a misdemeanor, Coke ordered Plaintiffs and other class
13 member/protected persons to not keep accurate records of the actual hours worked by
14 other hourly employees and victims. Coke orders also required Plaintiffs and class
15 member/protected persons to violate Industrial Welfare Commission Orders, No. 7-01,
16 No. 7-98 and 7-80, which requires employers such as Coke to keep on file for at least
17 three years records of the actual hours worked by employees or be disciplined or
18 terminated.

19 27. California Labor Code § 226 requires employers to provide employees with
20 statements of the hours they worked with their paychecks. When Plaintiffs and other
21 putative class members told Coke this was not being done, they were either terminated or
22 threatened with termination.

23 **FIRST CAUSE OF ACTION**

24 **RETALIATORY TERMINATION IN VIOLATION OF STATE LAW,**
25 **PLAINTIFFS VERSUS COKE DEFENDANTS AND EACH OF THEM .**

26 28. Plaintiff incorporate by reference the allegations contained in Paragraphs 1 through
27 27 of this Complaint as if fully set forth herein.

1 29. During all relevant periods, Coke required, suffered or ordered Plaintiffs, putative
2 class members and protected persons (hereinafter PCMs), to falsify records of hours
3 work in excess of eight hours per day and or to work in excess of 40 hours per week by
4 other employees.

5 30. During all relevant periods through today, Industrial Welfare Commission Order
6 No. 7 in its various versions applied to Plaintiffs and PCMs and or victims' employment by
7 Coke, and provided that any work performed by an employee in excess of eight hours in
8 any work day, on the seventh day of work in any workweek, or in excess of 40 hours in
9 any workweek, be compensated at one-and-one-half times the employee's regular rate of
10 pay. Coke tried to use Plaintiffs, and PCMs avoid paying for the hours other employees
11 worked in excess of eight hours in any work day, on the seventh day of work in any
12 workweek, or in excess of 40 hours in any workweek at one-and-one-half times their
13 regular rate of pay. Plaintiff and PCMs are entitled to recover their compensation, benefits
14 and penalties and interest since their illegal termination.

15 31. During all relevant periods through today, Industrial Welfare Commission Order
16 No. 7 in its various versions and Penal Code §484, applied to Plaintiffs and PCMs'
17 employment by Coke, and provided that any work performed by an employee in excess of
18 12 hours in any work day, or in excess of eight hours on the seventh day of work in any
19 workweek be compensated at double the employee's regular rate of pay. Coke required
20 Plaintiffs and PCMs to falsify records of the hours other employees they worked in excess
21 of 12 hours in any work day or in excess of eight hours on the seventh day of work in any
22 workweek at double their regular rate of pay.

23 32. During all relevant periods through today, Industrial Welfare Commission Order
24 No. 7 in its various versions applied to Plaintiffs and PCMs employment by Coke, and
25 provided that any work performed by an employee in excess of 40 hours in any workweek
26 be compensated at one-and-one-half times the employee's regular rate of pay. Coke did
27 not want to compensate each of them for the hours they worked in excess of 40 hours in
28

1 any workweek at one-and-one-half times their regular rate of pay after January 1, 1998,
2 and they tried to use the Plaintiff and PCMs to illegally avoid such payments.

3 33. Despite this and other formal and informal complaints by Mid-level Managers, and
4 or hourly employees to Coke, they, through their managing agents have willfully or
5 negligently, and continue to willfully or negligently terminate and or threaten to terminate
6 Plaintiffs and PCMs in violation of State Law which makes such acts illegal and a violation
7 of public policy.

8 34. In terminating or threatening Plaintiffs and PCMs, Coke acted maliciously,
9 oppressively, despicably, with the wrongful intention of causing injury and hardship to
10 Plaintiffs and PCMs by reaping economic gain at their personal expense, in willful and
11 conscious disregard of Plaintiffs and PCMs, rights to report and or refuse to engage in
12 wrongful acts.

13 35. Further, Coke misrepresented to Plaintiffs that they were not authorized to approve
14 overtime compensation to hourly employees , deceiving them into believing that they
15 were not entitled orderly payment of overtime compensation and thereby depriving
16 employees of the overtime compensation to which they were legally entitled. Accordingly,
17 it would now be inequitable for Coke to assert the statute of limitations to any claims filed
18 against it by Plaintiffs. Further Coke cannot take any action against the Plaintiffs for
19 bringing this action on behalf of themselves and the other employees including but not
20 limited to libel, slander, termination, demotion, transfers, lateral reassignments, reduction
21 of pay and benefits and or providing false employment history and or recommendations to
22 other employers. If Coke or its managing agents do any such act then in addition to any
23 other remedy provided for by law, it is requested that this Court issue the appropriate
24 protective orders, upon proper Motion, up to and including imprisonment for Contempt of
25 Court and immediate reinstatement of Plaintiffs to their former position with Coke.

26 36. Plaintiffs, class members and protected persons are therefore entitled to the relief
27 requested below.

1 **SECOND CAUSE OF ACTION**

2 **VIOLATIONS OF UNFAIR BUSINESS PRACTICES ACT**
3 **BUSINESS AND PROFESSIONS CODE §17200 et. seq.**

4 37. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1
5 through 36 of this Complaint as if fully set forth herein.

6 38. Labor Codes § 226, 1174 and other statutes require employers to maintain and
7 furnish each employee with an itemized statement showing, inter alia, the total hours
8 actually worked by the employee on a semi-monthly basis or with each paycheck. Mid-
9 level managers and the other hourly employees are not exempt from this requirement and
10 therefore are entitled to receive a statement of the hours they worked from Coke. Even
11 though Labor Code § 226.3 subjects employers who violate § 226 to civil penalties of
12 \$250 per employee per violation, Coke failed and refused to provide Mid-level managers
13 and other hourly employees with itemized statements of the actual hours they worked.

14 39. In violation of statutory duty, Coke has intentionally or negligently refused, and
15 continues to refuse to maintain and furnish records of hours worked by Plaintiffs and other
16 hourly employees and or modifying such records, making it impossible to determine the
17 exact amount of overtime compensation owed to Plaintiffs, class members and victims.

18 40. In failing to maintain and furnish Plaintiffs, class members and protected persons
19 with records of the actual hours they worked as alleged herein, Coke acted maliciously,
20 oppressively and despicably, with the wrongful intention of causing injury and hardship to
21 these employees by denying them such information in an effort to deprive them of the
22 means to recover compensation for the hours they worked, in willful and conscious
23 disregard of the their right to such records and of Coke's statutory duty to furnish such
24 records. Further, Coke acted fraudulently in failing to maintain the actual hours worked
25 by each class of employees/§17200 victims, thereby depriving them of basic evidence to
26 assist in obtaining compensation for those hours and in violation of the public policy and
27 laws of this State, including, but not limited to Labor Code §90.5 and case law.

1 41. The State Supreme Court has decided that the Unfair Business Practices Act
2 covers employee wage cases.

3 42. Violations of wages laws and violations of certain provisions of §17200 et. seq. are
4 criminal offenses in this State.

5 43. Business and Professions Code §§ 17200, et seq., prohibits acts of unfair
6 competition, which shall mean and include any "unlawful, unfair or fraudulent business act
7 or practice and includes by incorporation violations of other statutes and are "strict liability
8 offenses."

9 44. The policies, acts and practices heretofore described were and are unlawful
10 business acts or practices because Coke failure to pay overtime to hourly employees, its
11 failure to maintain accurate records of hours worked for the statutorily-mandated period of
12 time, illegal modification of such records, and its unlawful or fraudulent representations to
13 Mid-level managers designed to reduce pay to non-exempt employees and violate Labor
14 Codes § 226, 1174 and 1194, Industrial Welfare Commission Order No. 7-01, 7-98 and 7-
15 80, Penal Code §484, and other provisions of California law. Plaintiffs reserve the right to
16 allege additional statutory and common law violations by Coke. Such conduct is believed
17 to be ongoing to this date.

18 45. Business and Professions Code § 17200, et seq., also prohibits acts of unfair
19 competition which shall mean and include any "unfair . . . business act or practice."

20 46. The policies, acts or practices described herein were and are an unfair business
21 act or practice because any justification for Coke's illegal and wrongful conduct is vastly
22 outweighed by the harm such conduct caused Plaintiffs the other class members, and
23 members of the general public. Such conduct is ongoing to this date. Coke engaged in
24 such conduct to hold down its labor costs, increase profits and gain a competitive
25 advantage over its competitors in the marketplace.

26 47. Business and Professions Code § 17200 et seq. also prohibits acts of unfair
27 competition, which shall mean and include any "fraudulent business act or practice."
28

1 48. Coke's failure to correct reported wage violations, pay overtime wages to hourly
2 employees and protected persons, and failure to retain records of hours worked coupled
3 with Coke's misrepresentations to Plaintiffs and protected persons that they were not
4 entitled to overtime pay, was misleading and had a tendency to deceive them into
5 believing that they had no right to overtime pay.

6 49. Plaintiffs and protected persons are forced by Coke's practices to request
7 injunctive relief to avoid harm as described above to Plaintiffs and others for which no
8 adequate remedy at law may exist. Plaintiffs, the other members of the class, protected
9 persons and the general public are therefore entitled to the relief requested below.

10 **THIRD CAUSE OF ACTION**

11 (Equitable Estoppel to Prevent Coke from benefiting from its
12 intentional and/or fraudulent misrepresentations.)

13 50. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1
14 through 49 of this Complaint as if fully set forth herein.

15 51. Coke has employed individuals in the position of mid-level Manager and other
16 hourly positions for a period of more than the last four years.

17 52. During that period, Coke used mid-level managers to short employees overtime
18 wages and not comply with recording and reporting requirements of hours worked.

19 53. Upon information and belief, Coke was aware, or reasonably should have been
20 aware, that for more then that entire four-year period KRONOS and other time records
21 were being modified without the employees knowledge or consent.

22 54. Coke by and through the individual named defendants herein and other managing
23 agents have consistently misrepresented the fact that the hourly employees were being
24 paid as required by State Law.

25 55. Coke misrepresentations were made with the intent that its employees rely upon
26 said misrepresentations.

27 56. Coke employees were ignorant and unaware of the falsity of Coke's
28 misrepresentations at the time such misrepresentations were made.

57. Coke employees relied upon the misrepresentations to their detriment.

1 58. The actions of Coke were inequitable and Coke was unjustly enriched because of
2 these misrepresentations.

3 59. Coke should be equitably estopped from asserting the four year statute of
4 limitations under the Unfair Business Practices Act or three years under the Labor Code
5 as a defense to the claims of Plaintiffs on behalf of the employees who worked overtime
6 prior to the three years preceding this action and who failed to seek legal counsel and/or
7 pursue claims for repayment of their unlawfully withheld wages as a direct result of such
8 misrepresentations.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs prays for judgment and relief as follows:

11 As applicable to the Causes of Action set forth above:

12 1. An Order certifying that the action may be maintained as a class action, for each
13 class set forth herein, under California Civil Code § 382, and appellate case law.

14 2. An Order prohibiting illegal modification of employee time and wage records;

15 3. Compensatory and statutory damages and or \$17200 et. seq. restitution or
16 disgorgement, as appropriate and available under each cause of action, in an amount to
17 be proven at trial based on inter alia, the unpaid overtime compensation Coke owes, the
18 penalty for failure to pay the same and costs of reconstructing the actual overtime
19 worked, pursuant to Labor Code §1194(a), Labor Code § 203, Labor Code § 226(b),
20 Labor Code § 206.5, Business and Professions Code 17203, IWC Wage Orders, other
21 sections and or common law.

22 4. Exemplary and punitive damages, as appropriate and available under the
23 appropriate cause of action, pursuant to California Civil Code § 3294:

24 5. An Order imposing an asset freeze in constructive trust over Coke ill-gotten gains,
25 and enjoining Coke from failing and refusing to disgorge all monies acquired by means of
26 any act or practice declared by this Court to constitute unlawful, unfair or fraudulent acts
27 or practices;

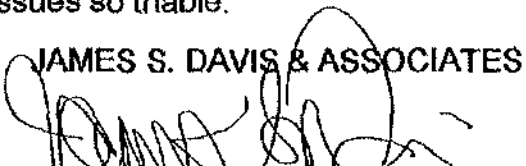
- 1 6. An Order enjoining Coke from pursuing the policies, acts and practices complained
2 of herein;
- 3 7. An equitable Order estopping Coke from using its own failure to comply with a
4 statutory duty to maintain accurate records of hours worked as a basis for attacking
5 Plaintiffs and victims claims stated herein, and requiring Coke to adopt Plaintiffs
6 reasonable construction of the actual overtime hours worked;
- 7 8. An Order which declares the four-year statute of limitations inapplicable, thereby
8 estopping Coke from inequitably benefiting from its own misrepresentations
- 9 9. An order requiring the reinstatement of each Plaintiff and victim to the assignment,
10 position and rank they held when they reported the wage violations to Coke in addition to
11 an order for payment of back pay and benefit differentials.
- 12 10. Reasonable attorney fees pursuant to, inter alia, California Code of Civil Procedure
13 § 1021.5, Labor Code §1194(a) and 203 and other statutes and cases;
- 14 11. Costs of this suit;
- 15 12. Pre and post-judgment interest; and
- 16 12. Such other and further relief as the Court deems just and proper;

17 **JURY DEMAND**

18 Plaintiffs demand a trial by jury on all issues so triable.

19 Date: January 17, 2002

JAMES S. DAVIS & ASSOCIATES


James S. Davis for Plaintiffs, class members,
private attorney generals and §17200,

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

AL SAUCEDO, et.al.

Case No. **RCV 060593**

vs.

THE COCA-COLA COMPANY; COCA-COLA ENTERPRISES, INC.;
BCI COCA-COLA BOTTLING COMPANY OF LOS ANGELES
dba COCA-COLA BOTTLING COMPANY OF SOUTHERN CALIFORNIA

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing must be accompanied by this certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the RANCHO CUCAMONGA District of the Superior Court under Rule 153.T of this court for the checked reason:

- | | |
|--|--|
| <input checked="" type="checkbox"/> General
Nature of Action | <input checked="" type="checkbox"/> Collection
Ground |
| <input type="checkbox"/> 1 Adoption | Petitioner resides within the district. |
| <input type="checkbox"/> 2 Conservator | Petitioner or conservatee resides within the district. |
| <input type="checkbox"/> 3 Contract | Performance in the district is expressly provided for. |
| <input type="checkbox"/> 4 Equity | The cause of action arose within the district. |
| <input type="checkbox"/> 5 Eminent Domain | The property is located within the district. |
| <input type="checkbox"/> 6 Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| <input type="checkbox"/> 7 Guardianship | Petitioner or ward resides within the district or has property within the district. |
| <input type="checkbox"/> 8 Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| <input type="checkbox"/> 9 Mandate | The defendant functions wholly within the district. |
| <input type="checkbox"/> 10 Name Change | The petitioner resides within the district. |
| <input type="checkbox"/> 11 Personal Injury | The injury occurred within the district. |
| <input type="checkbox"/> 12 Personal Property | The property is located within the district. |
| <input type="checkbox"/> 13 Probate | Decedent resided or resides within the district or had property within the district. |
| <input type="checkbox"/> 14 Prohibition | The defendant functions wholly within the district. |
| <input type="checkbox"/> 15 Review | The defendant functions wholly within the district. |
| <input type="checkbox"/> 16 Title to Real Property | The property is located within the district. |
| <input type="checkbox"/> 17 Transferred Action | The lower court is located within the district. |
| <input type="checkbox"/> 18 Unlawful Detainer | The property is located within the district. |
| <input type="checkbox"/> 19 Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| <input checked="" type="checkbox"/> 20 Other <u>Unfair Business Practice</u> | <u>Overtime Wage Claim & Retaliatory Termination and/or Discipline</u> |
| <input type="checkbox"/> 21 THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT. | |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

COCA-COLA ENTERPRISES, INC.	10670 6TH STREET
(NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR)	ADDRESS
RANCHO CUCAMONGA	CA 91730
(city)	(STATE) (ZIP CODE)

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on JANUARY 18, 2002 at RANCHO CUCAMONGA, California

James S. Davis
Signature of Attorney/Party
James S. Davis JAMES S. DAVIS & ASSOCIATES

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): JAMES S. DAVIS & ASSOCIATES SBN 112906 7974 HAVEN AVENUE SUITE 180 RANCHO CUCAMONGA, CA 91730 TELEPHONE NO.: (909) 9897-7900 FAX NO.: (909) 987-6266 ATTORNEY FOR (Name): PLAINTIFF'S	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; text-align: center;">RCV 060593</div>
INSERT NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY: COUNTY OF SAN BERNARDINO, SUPERIOR COURT, WEST DIVISION	
CASE NAME: AL SAUCEDO V. THE COCA-COLA COMPANY	
CIVIL CASE COVER SHEET <input type="checkbox"/> Limited <input checked="" type="checkbox"/> Unlimited	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)

Please complete all five (5) items below.

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (e.g., discrimination, false arrest) (08) <input type="checkbox"/> Defamation (e.g., slander, libel) (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (e.g., legal malpractice) (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36)	<input type="checkbox"/> Other employment (15) Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (e.g., money owed, open book accounts) (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (e.g., quiet title) (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11)	<input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Claims involving mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Toxic tort/Environmental (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (e.g., sister state, foreign, out-of-county abstracts) (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 1800 of the California Rules of Court. If case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence	d. <input checked="" type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination and related actions pending in one or more courts in other counties, states or countries, or in a federal court f. <input type="checkbox"/> Substantial post-disposition judicial disposition
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3. Type of remedies sought (check all that apply):
 a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 4

5. This case is is not a class action suit.

Date: JANUARY 18, 2002

JAMES S. DAVIS
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate, Family, or Welfare and Institutions Code). (Cal. Rules of Court, rule 982.2.)
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet shall be used for statistical purposes only.

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: (Aviso a Acusado)

THE COCA-COLA COMPANY; COCA-COLA ENTERPRISES, INC.;
BCI COCA-COLA BOTTLING COMPANY OF LOS ANGELES, dba COCA-COLA
BOTTLING COMPANY OF SOUTHERN CALIFORNIA; TERRENCE A. FITCH;
SID CAMPA; MICHAEL PIMMEL; JOSEPH F. HODGE; LINDA FREGOSO;
LAFAYETTE SHELTON; DEBBY WILLIAMS; MICHAEL PASQUA; DAN TYRE;
MICHAEL JORDAN; STEVEN SHRIMPLIN;
AND DOES 1 to 100, INCLUSIVE

YOU ARE BEING SUED BY PLAINTIFF:

(A Ud. le está demandando) AL SAUCEDO, FRANK RODRIGUES,
PETER SANTILLI, DEAN SMITH, RON CARTER, KEVIN ADAMS, ON BEHALF OF
THEMSELVES, AS PRIVATE ATTORNEY GENERALS, AND ON BEHALF OF ALL
SIMILARLY SITUATED;
AND DOES 1 to 500, INCLUSIVE

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

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de **30 DIAS CALENDARIOS** para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: *(El nombre y dirección de la corte es)*
COUNTY OF SAN BERNARDINO, SUPERIOR COURT, WEST DISTRICT
8303 NORTH HAVEN AVENUE
RANCHO CUCAMONGA, CA 91730

Case Number: (Número del Caso)
RCV 060593

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)

JAMES S. DAVIS & ASSOCIATES, SBN 122906, 7974 HAVEN AVENUE, SUITE 180
RANCHO CUCAMONGA, CALIFORNIA 91730 Tel (909)987-7900 Fax (909)987-6265 www.jdavislaw.com

DATE: **JAN 18 2002**
(Fecha)

Clerk, by **DOXANNE R. REA** Deputy
(Actuario) (Delegado)

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of *(specify)*:
3. on behalf of *(specify)*:

under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.80 (individual)
 other:

4. by personal delivery on *(date)*:

[SEAL]

Rancho Superior Court

8303 N Haven Ave
Rnch Cucamonga, CA 91730

JAN 18 2002

By *Roxie R. Rea* Deputy

CASE NO: RCVRS060593

JAMES S DAVIS & ASSOCIATES
7974 HAVEN AVE
SUITE 180
RANCHO CUCAMONGA CA 91730

NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES
NOTICE OF CASE MANAGEMENT CONFERENCE AND
OSC RE SERVICE COMPLETION

IN RE: AL SAUCEDO ETAL -V- THE COCA-COLA CO ETAL

Please take notice that the above-entitled case has been set for a CMC Hearing and an OSC re Service Completion hearing. File your CMC questionnaire in the courtroom 5 court days prior to the hearing. Failure to appear may result in sanctions or dismissal of your case.

"THIS CASE HAS BEEN ASSIGNED TO JUDGE PETER H NORELL
IN DEPARTMENT R3 FOR ALL PURPOSES."

OSC RE SERVICE HEARING SET: 00/00/00 AT 0:00 in

If proof of service of summons and complaint had been filed, no appearance is required at the OSC re Service Completion hearing.

CMC HEARING SET: 06/07/02 AT 9:30 IN DEPARTMENT R3

A COPY OF THIS NOTICE MUST BE SERVED ON ALL DEFENDANTS

Date: 01/18/02 Tressa Kentner, Court Admin. By: ROXIE REA

CERTIFICATE OF SERVICE BY MAIL

I hereby declare that I am over the age of 18 years, a resident of San Bernardino County, State of California, and not a party to nor interested in the title of the within entitled case. I am a Deputy County Clerk of the said County and on the date shown below I served a copy of the "Notice of Case Management Conference" as follows:

() Enclosed in an envelope mailed to the interested party addressed above, for collection and mailing this date, following ordinary business practice.

() Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above.

(-X) A copy of this notice was given to the filing party at the counter.

DATE OF MAILING: 01/18/02

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 01/18/02 at Rnch Cucamonga, CA BY: ROXIE REA