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13 Attorneys for Representative Plaintiff  
14 and the Plaintiff Class

15 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **IN AND FOR THE COUNTY OF SANTA CLARA**

17 MANUEL MEDINA, individually, and )  
18 on behalf of all others similarly )  
19 situated, )  
20 Plaintiffs, )  
21 vs. )  
22 REPUBLIC SERVICES, INC., )  
23 ALLIED WASTE SYSTEMS, INC., )  
24 and DOES 1 through 100, inclusive, )  
25 Defendants. )

Case No. 112CV222517

CLASS ACTION

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

**[Jury Trial Demanded]**

26 Representative Plaintiff alleges as follows:

27 **PRELIMINARY STATEMENT**

28 1. This is a class action, brought on behalf of Manuel Medina (hereinafter  
"Representative Plaintiff") and all other persons similarly situated ("Class Members") who are or  
were employed as non-exempt commercial drivers by defendants Republic Services, Inc., Allied  
Waste Systems, Inc., and Does 1 through 100, inclusive (collectively "Defendant" and/or "Allied  
Waste") in California within the applicable class period. The Representative Plaintiff, on behalf of  
himself and the Class Members, seeks unpaid wages, interest thereon and other penalties, injunctive

7 ENDORSED  
FILED

2012 APR 13 PM 1:34

David H. Yamazaki, Clerk of the Superior Court  
County of Santa Clara, California  
By: \_\_\_\_\_  
Deputy Clerk

1 and other equitable relief, and reasonable attorneys' fees and costs under, *inter alia*, Title 8 of the  
2 California Code of Regulations, California Business and Professions Code §§17200, *et seq.*,  
3 California Code of Civil Procedure §1021.5, and various provisions of the California Labor Code.

4 2. The Class Period is designated as the time from April 13, 2008 through the date of  
5 trial, based upon the allegation that the violations of California's wage and hour laws, as described  
6 more fully below, have been ongoing throughout that time.

7 3. During the Class Period, Defendant has had a consistent policy of (1) unlawfully  
8 failing to provide the Representative Plaintiff and Class Members statutorily-mandated meal and rest  
9 periods, (2) unlawfully failing to indemnify and/or reimburse the Representative Plaintiff and Class  
10 Members for expenses and losses necessarily incurred in the course of performance of their work  
11 duties, and (3) willfully failing to provide the Representative Plaintiff and the Class Members with  
12 accurate semi-monthly itemized wage statements reflecting the total number of hours each worked,  
13 the applicable deductions, and the applicable hourly rates in effect during the pay period.

14 4. In addition, Representative Plaintiff alleges, on information and belief, that Defendant  
15 has had a consistent policy of willfully failing to pay compensation in a prompt and timely manner to  
16 certain Class Members whose employment with Defendant has terminated.

17  
18 **INTRODUCTION**

19 5. The Representative Plaintiff is informed and believes and, based thereon, alleges that,  
20 within the Class Period, Defendant Allied Waste has employed hundreds of individuals in  
21 commercial driving positions in recent years alone at its facilities/locations within the State of  
22 California.

23 6. Despite actual knowledge of these facts and legal mandates, Allied Waste has enjoyed  
24 an advantage over its competition and a resultant disadvantage to its workers by electing not to  
25 provide all meal and/or rest periods to its non-exempt employees.

26 7. The Representative Plaintiff is informed and believes and, based thereon, alleges that  
27 officers of Allied Waste knew of these facts and legal mandates, yet, nonetheless, repeatedly  
28 directed, authorized and/or ratified the violation of the laws cited herein.



1 position which was entitled and continues to enjoy an entitlement to various conditions of  
2 employment such as meal and/or rest periods.

3 13. As used throughout this Complaint, the terms “Class Members” and/or the “Plaintiff  
4 Class” refer to the named plaintiff herein as well as each and every person eligible for membership  
5 in the Plaintiff Class, as further described and defined below.

6 14. At all times herein relevant, the Representative Plaintiff was and now is a person  
7 within the class of persons further described and defined herein.

8 15. The Representative Plaintiff brings this action on behalf of himself and as a class  
9 action, pursuant to California Code of Civil Procedure §382, on behalf of all persons or entities  
10 similarly situated and proximately damaged by the unlawful conduct described herein.

11  
12 **DEFENDANTS**

13 16. At all times herein relevant, defendants Republic Services, Inc. and Allied Waste  
14 Systems, Inc. were business entities, duly licensed and located and doing business in, but not limited  
15 to, the County of Santa Clara, in the State of California.

16 17. The Representative Plaintiff is informed and believes and, based thereon, alleges that  
17 Defendant directly or indirectly employs and since April 13, 2008, has employed and/or exercised  
18 control over the wages, hours and/or working conditions of the Representative Plaintiff and Class  
19 Members employed by Defendant in various California counties, including, but not necessarily  
20 limited to, Santa Clara County.

21 18. Those defendants identified as Does 1 through 100, inclusive, are and were, at all  
22 relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some/each  
23 of the remaining defendants. The Representative Plaintiff is informed and believes and, on that basis,  
24 alleges that, at all relevant times herein mentioned, each of the defendants identified as Does 1  
25 through 100, inclusive, employed and/or exercised control over the wages, hours and/or working  
26 conditions of the Representative Plaintiff and Class Members at various California locations, as  
27 identified in the preceding paragraph.



1 issues of fact and law which predominate over any questions and issues  
2 solely affecting individual members, including, but not necessarily limited to:

- 3 1) Whether Defendant violated California Labor Code §§ 226.7 and/or  
4 512 by failing to consistently provide meal and rest periods to Class  
5 Members;
- 6 2) Whether Class Members are entitled to indemnification and/or  
7 reimbursement for expenses and losses necessarily incurred in  
8 performing their work duties pursuant to California Labor Code §§  
9 406, 2800 and 2802;
- 10 3) Whether Defendant violated California Business and Professions  
11 Code § 17200, *et seq.* by failing to pay all wages due to Class  
12 Members;
- 13 4) Whether Defendant violated California Labor Code § 1174 by failing  
14 to keep accurate records of Class Members' hours of work;
- 15 5) Whether Defendant violated California Labor Code §§ 201-203 by  
16 failing to pay all wages due and owing at the time that certain Class  
17 Members' employment with Defendant terminated;
- 18 6) Whether Defendant violated California Labor Code § 226 by failing  
19 to provide the semimonthly itemized statements to Class Members of  
20 total hours worked by each and all applicable hourly rates in effect  
21 during the pay period; and
- 22 7) Whether Class Members are entitled to "waiting time" penalties,  
23 pursuant to California Labor Code § 203.

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

28 d. 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.

e. 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

1 conducting litigation of this nature. The Representative Plaintiff is not subject  
2 to any individual defenses unique from those conceivably applicable to the  
3 Plaintiff Class as a whole. The Representative Plaintiff anticipates no  
4 management difficulties in this litigation.

5 **COMMON FACTUAL ALLEGATIONS**

6 24. As described herein, for years Defendant has knowingly failed to adequately  
7 compensate those employees within the class definition identified above for all wages earned  
8 (including premium wages such as compensation for missed meal and/or rest periods) under the  
9 California Labor Code and the applicable IWC Wage Order, thereby enjoying a significant  
10 competitive edge over other employers.

11 25. Moreover, California Labor Code §§ 201 and 202 require Defendant Allied Waste to  
12 pay its employees all wages due immediately upon discharge. California Labor Code § 203 provides  
13 that, if an employer willfully fails to timely pay such wages, the employer must, as a penalty,  
14 continue to pay the subject employees' wages until the back wages are paid in full or an action is  
15 commenced. The penalty cannot exceed 30 days of wages.

16 26. Even upon termination or resignation of the employment of numerous Class  
17 Members, Allied Waste has declined to compensate these employees therefor, in blatant violation of  
18 California Labor Code §§ 201 and/or 202.

19 27. More than 30 days have passed since particular Class Members have left Defendant  
20 Allied Waste's employ.

21 28. As a consequence of Defendant Allied Waste's willful conduct in not paying full  
22 compensation to these terminated Class Members, Plaintiff and these particular Class Members are  
23 entitled to 30 days wages as a penalty under California Labor Code § 203, together with interest  
24 thereon and attorneys' fees and costs.

25 29. Furthermore, despite its knowledge of the Representative Plaintiff and the Class  
26 Members' entitlement to compensation for all hours worked, Defendant violated California Labor  
27 Code § 1174(d) by failing to provide or require the use, maintenance, or submission of time records  
28 by members of the class. Defendant also failed to provide the Representative Plaintiff and Class  
Members with accurate semimonthly itemized statements of the total number of hours worked by

1 each, and all applicable hourly rates in effect, during the pay period, in violation of California Labor  
2 Code § 226. In so doing, Allied Waste has not only failed to pay its workers the full amount of  
3 compensation due, it has, until now, effectively shielded itself from its employees' scrutiny for its  
4 unlawful conduct by concealing the magnitude and financial impact of its wrongdoing.

5 30. The Representative Plaintiff is informed and believes and, on that basis, alleges that  
6 many members of the Plaintiff Class are entitled to unpaid compensation, yet, to date and despite the  
7 termination of their employment with Allied Waste, have not received such compensation.

8 31. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,  
9 Representative Plaintiff and Class Members have sustained damages, as described above, including  
10 compensation for loss of earnings for hours worked on behalf of Defendant, in an amount to be  
11 established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set  
12 forth herein, certain Class Members are entitled to recover "waiting time" penalties (pursuant to  
13 California Labor Code § 203) and penalties for failure to provide semimonthly statements of hours  
14 worked and all applicable hourly rates (pursuant to California Labor Code § 226) in an amount to be  
15 established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set  
16 forth herein, Representative Plaintiff and Class Members are also entitled to recover costs and  
17 attorneys' fees pursuant to California Civil Code § 1021.5 and 1032, among other authorities.

18 32. Representative Plaintiff seeks injunctive relief prohibiting Defendant from engaging  
19 in the complained-of illegal labor acts and practices in the future. Representative Plaintiff also seeks  
20 restitution of costs incurred by Representative Plaintiff and Class Members under California's Unfair  
21 Competition Law. Unless enjoined, Defendant's unlawful conduct will continue unchecked, while  
22 Representative Plaintiff and Class Members bear the financial brunt of Defendant's unlawful  
23 conduct. As a further direct and proximate result of Defendant's unlawful conduct, as set forth  
24 herein, Representative Plaintiff and the Plaintiff Class are also entitled to recover costs and  
25 attorneys' fees, pursuant to statute.

26 33. Representative Plaintiff complied with the procedures for bringing suit specified in  
27 California Labor Code § 2699.3. By letter dated April 13, 2012, Representative Plaintiff gave written  
28 notice, by certified mail, to the Labor and Workforce Development Agency ("LWDA") and

1 Defendant of the specific provisions of the California Labor Code alleged to have been violated,  
2 including the facts and theories to support the alleged violations.

3  
4 **FIRST CAUSE OF ACTION**  
5 **FAILURE TO PROVIDE MEAL AND REST PERIODS**  
6 **(California Labor Code §§ 226.7 and 512)**

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

10 35. At all relevant times, Defendant was aware of and was under a duty to comply with  
11 California Labor Code §§ 226.7 and 512.

12 36. California Labor Code § 226.7 provides:

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

22 37. Moreover, California Labor Code § 512(a) provides:

23 An employer may not employ an employee for a work period of more  
24 than five hours per day without providing the employee with a meal  
25 period of not less than 30 minutes, except that if the total work period  
26 per day of the employee is no more than six hours, the meal period  
27 may be waived by mutual consent of both the employer and  
28 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.

38. By failing to consistently provide uninterrupted and unrestricted meal periods and to  
provide uninterrupted rest periods to its non-exempt employees, Defendant violated California Labor  
Code §§ 226.7 and/or 512.

39. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,  
the Representative Plaintiff and the Class Members have sustained damages, including loss of

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

5  
6 **SECOND CAUSE OF ACTION**  
7 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**  
8 **(California Labor Code §§ 226 and 1174)**

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

12 41. California Labor Code § 226(a) provides:

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

25 42. Moreover, California Labor Code § 226(e) provides:

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

43. Finally, California Labor Code § 1174 provides:

Every person employing labor in this state shall: (d) Keep, at a central  
location in the 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.

1 44. Representative Plaintiff seeks to recover actual damages, costs, and attorneys' fees  
2 under these provisions on behalf of himself and on behalf of all Class Members.

3 45. Defendant has failed to provide timely, accurate itemized wage statements to the  
4 Representative Plaintiff and Class Members in accordance with California Labor Code § 226.  
5 Representative Plaintiff is informed and believes and, based thereon, alleges that none of the  
6 statements provided by Defendant accurately reflected actual gross wages earned, net wages earned,  
7 or the appropriate deductions for any Class Member.

8 46. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,  
9 the Representative Plaintiff and Class Members have sustained damages in an amount to be  
10 established at trial, and are entitled to recover attorneys' fees and costs of suit.

11  
12 **THIRD CAUSE OF ACTION**  
13 **FAILURE TO PAY WAGES WHEN DUE**  
14 **(California Labor Code § 203)**

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

16 48. California Labor Code § 203 provides that:

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

21 49. Representative Plaintiff and the Class Members were employed by Defendant during  
22 the Class Period and did not receive all wages owed in the time dictated by California Labor Code  
23 § 204. Moreover, certain Class Members were employed by Allied Waste during the Class Period  
24 and were thereafter terminated or resigned from their positions, yet they were not paid all wages due  
25 upon said termination or within 72 hours of said resignation of employment therefrom. Said non-  
26 payment was the direct and proximate result of a willful refusal to do so by Defendant.

27 50. More than thirty days have elapsed since certain Class Members were involuntarily  
28 terminated or voluntarily resigned from Defendant's employ.



1 unlawful, unless the employee, at the time of obeying the directions, believed them to  
2 be unlawful.

3 59. By requiring the Representative Plaintiff and Class Members to incur uncompensated  
4 expenses in direct consequence of the discharge of their duties, Representative Plaintiff and Class  
5 Members were forced and/or brought to contribute to the capital and expenses of the Defendant's  
6 business which is legally a cash bond and which must be refunded by Defendant to each Class  
7 Member. Similarly, by failing to reimburse the Representative Plaintiff and Class Members for  
8 losses caused by Defendant's failure to exercise ordinary care, Representative Plaintiff and Class  
9 Members have been forced to contribute to the capital and expenses of Defendant's business, in  
10 contravention of the law.

11 60. California Labor Code § 2802 (b) and (c) provides for interest at the statutory post  
12 judgment rate of ten percent simple interest per annum from the date of the expenditure, plus  
13 attorneys' fees to collect reimbursement.

14 61. Therefore, Representative Plaintiff demands reimbursement for expenditures or losses  
15 he and Class Members incurred in direct consequence of the discharge of their duties, or of his or  
16 their obedience to the directions of the employer, plus return of all cash bonds or other coerced  
17 investments in the business of the Defendant, with interest, at the statutory rate, plus attorneys' fees.

18 **FIFTH CAUSE OF ACTION**  
19 **UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT**  
20 **(California Business & Professions Code §§ 17200-17208)**

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

24 63. The Representative Plaintiff further brings this cause of action on behalf of the  
25 general public, seeking equitable and statutory relief to stop the misconduct of Defendant, as  
26 complained of herein, and to compel the payment of restitution by Defendant as a result of the  
27 unfair, unlawful and fraudulent business practices described herein.

28 64. Defendant's knowing conduct, as alleged herein, constitutes an unlawful and/or  
fraudulent business practice, as set forth in California Business & Professions Code §§ 17200-

1 17208. Specifically, Defendant conducted business activities while failing to comply with the legal  
2 mandates cited herein.

3 65. Defendant's knowing failure to adopt policies in accordance with and/or adhere to  
4 these laws, all of which are binding upon and burdensome to Defendant's competitors, engenders an  
5 unfair competitive advantage for Defendant, thereby constituting an unfair business practice, as set  
6 forth in California Business & Professions Code §§ 17200-17208.

7 66. Defendant Allied Waste has clearly established a policy of accepting a certain amount  
8 of collateral damage, as represented by the damages to the Representative Plaintiff and the Plaintiff  
9 Class herein alleged, as incidental to its business operations, rather than accept the alternative costs  
10 of full compliance with fair, lawful and honest business practices ordinarily borne by responsible  
11 competitors of Defendant and as set forth in legislation and the judicial record.

12 67. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,  
13 the Representative Plaintiff and the Class Members have sustained damages, including loss of  
14 earnings/wages, in an amount to be established at trial, and are entitled to restitution in such an  
15 amount.

16  
17 **SIXTH CAUSE OF ACTION**  
18 **PRIVATE ATTORNEYS GENERAL ACT CLAIM**  
19 **(California Labor Code §§ 2698 et seq.)**

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

22 69. The Private Attorneys General Act of 2004, California Labor Code § 2699 (a) states:  
23 Notwithstanding any other provision of the law, any provision of this code that  
24 provides for a civil penalty to be assessed and collected by the Labor and Workforce  
25 Development Agency or any of its departments, divisions, commissions, boards,  
26 agencies, or employees, for a violation of this code, may, as an alternative, be  
27 recovered through a civil action brought by an aggrieved employee on behalf of  
28 himself or herself and other current or former employees...

70. Representative Plaintiff is an "aggrieved employee" as defined by California Labor  
Code § 2699(c) because he was employed by Defendant and was one of the many employees against  
whom violations of the law were committed.



1           3.       That the Court make an award to the Representative Plaintiff and the Class Members  
2 of one hour of pay at each employee's regular rate of compensation for each workday that a meal  
3 period was not provided;

4           4.       That the Court make an award to the Representative Plaintiff and the Class Members  
5 of one hour of pay at each employee's regular rate of compensation for each workday that a rest  
6 period was not provided;

7           5.       That the Court make an award to the Representative Plaintiff and Class Members of  
8 civil penalties specified in California Labor Code § 2699 for each violation of California Labor Code  
9 §§ 201-203, inclusive, 226, 226.7, 512, 1174, 2800 and/or 2802;

10          6.       That the Court find that Defendant violated California Labor Code §§ 406 and 2802  
11 by failing to indemnify/reimburse the Representative Plaintiff and Class Members for expenses and  
12 losses necessarily incurred in the course of performance of their work duties;

13          7.       That the Court make an award to the Representative Plaintiff and Class Members in  
14 the amount of the unreimbursed expenses and/or losses incurred thereby, plus attorneys' fees under  
15 California Labor Code § 2802(c);

16          8.       That the Court order Defendant to pay restitution to the Representative Plaintiff and  
17 the Class Members due to Defendant's unlawful activities, pursuant to California Business and  
18 Professions Code §§17200-17208;

19          9.       That the Court further enjoin Defendant, ordering it to cease and desist from unlawful  
20 activities in violation of California Business and Professions Code §17200, *et seq.*

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

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

24          12.      For reasonable attorneys' fees, pursuant to California Code of Civil Procedure  
25 §1021.5; and

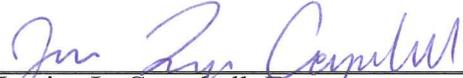
26          13.      For costs of suit and any and all such other relief as the Court deems just and proper.  
27  
28

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Dated: April 13, 2012

**SCOTT COLE & ASSOCIATES, APC**

By:   
Jessica L. Campbell, Esq.  
Attorneys for the Representative Plaintiff  
and the Plaintiff Class

**JURY DEMAND**

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

Dated: April 13, 2012

**SCOTT COLE & ASSOCIATES, APC**

By:   
Jessica L. Campbell, Esq.  
Attorneys for the Representative Plaintiff  
and the Plaintiff Class