

COPY
SUMMONS ON FIRST AMENDED
(CITACION JUDICIAL) CLASS ACTION COMPLAINT

SUM-100

NOTICE TO DEFENDANT: FRY'S ELECTRONICS, INC.; and DOES
(AVISO AL DEMANDADO): 1 to 50, Inclusive,

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

**CONFORMED COPY
OF ORIGINAL FILED**
Los Angeles Superior Court

JAN 08 2010

John A. Clarke, Executive Officer/Clerk
By Amber LaFleur-Clayton, Deputy
A.ER LaFLEUR-CLAYTON

YOU ARE BEING SUED BY PLAINTIFF: CHRISTINA CHORNOMUD, on
(LO ESTÁ DEMANDANDO EL DEMANDANTE): behalf of herself
and others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, 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 want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF THE STATE OF CALIFORNIA
111 N. HILL STREET

CASE NUMBER:
(Número del Caso):
BC425365

LOS ANGELES, CA 90012

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):

ERIC B. KINGSLEY, ESQ. SBN-185123 (818) 990-8300 FAX (818) 990-2903

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KINGSLEY & KINGSLEY, APC, 16133 VENTURA BLVD., SUITE 1200, ENCINO, CA 91436

DATE: JOHN A. CLARKE, CLERK, Clerk, by AMBER LaFLEUR-CLAYTON, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

JAN 08 2010

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 416.90 (authorized person)
 other (specify):

4. by personal delivery on (date):

Page 1 of 1

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John A. Clarke, Executive Officer/Clerk
By  Deputy
A. E. LEFLEUR-CLAYTON

7 **Attorneys for Plaintiffs**

8
9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

13 CHRISTINA CHORNOMUD, on behalf
of herself and others similarly situated,

14 Plaintiffs,

15 v.

16 FRY'S ELECTRONICS, INC.; and
17 DOES 1 to 50, Inclusive,

18 Defendants.

CASE NO.: BC425365

FIRST AMENDED CLASS ACTION
COMPLAINT FOR:

- 1. Failure to Pay Wages and/or Overtime
- 2. Failure to Provide Rest Breaks Under Labor Code §226.7
- 3. Itemized Wage Statement Violation of Labor Code §226(a)
- 4. Penalties Pursuant to Labor Code §203
- 5. Violation of Business & Professions Code §17200
- 6. Penalties Pursuant to Labor Code §2699

21 Plaintiff **CHRISTINA CHORNOMUD** on behalf of herself and all others similarly situated,
22 complains of defendants, and each of them, as follows:

23 **I**

24 **INTRODUCTION**

25 1. This is a Class Action, pursuant to Code of Civil Procedure §382, on behalf of plaintiff
26 and all individuals who hold or held the position of "hourly employee" who are employed by, or
27 formerly employed by **FRY'S ELECTRONICS, INC.**, and any subsidiaries or affiliated companies,
28 including those doing business as "**FRY'S ELECTRONICS, INC.**" (hereinafter referred to as

1 "FRY'S" or "Defendant"), within the State of California.

2 2. For at least four (4) years prior to the filing of this action continuing to the present,
3 defendants have had a consistent policy of failing to pay its employees their hourly wages, for all times
4 actually worked, or when employer had "locked down" their premises, thus locking their employees onto
5 the premise, which the employer was conducting other business, for its benefit, but as a consequence did
6 not allow its employee to leave the premises after they had otherwise completed their workday/shift.

7 3. For at least four (4) years prior to the filing of this action continuing to the present,
8 defendants have had a consistent policy of failing to pay overtime premium wages to hourly employees
9 for all work performed and/or work over eight (8) hours per day or forty (40) per week.

10 4. For at least four (4) years prior to the filing of this action and continuing to the present,
11 defendants have had a consistent policy of failing to provide hourly employees within the State of
12 California, including plaintiff, rest periods of at least ten (10) minutes per four (4) hours worked or major
13 fraction thereof and failing to pay such employees one (1) hour of pay at the employees regular rate of
14 compensation for each workday that the rest period was not provided, as required by California state
15 wage and hour laws.

16 5. From at least the four (4) years prior to the filing of this action and continuing to the
17 present, defendants failed to comply with California Labor Code §226(a) by itemizing in wage
18 statements all deductions from payment of wages and accurately reporting total hours worked by
19 Plaintiff and Class Members.

20 6. Plaintiff, on behalf of herself and all proposed class members, brings this action pursuant
21 to Labor Code §§201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1199, and 2699 seeking wages and/or
22 overtime, unpaid rest period compensation, waiting time penalties, injunctive and other equitable relief,
23 and reasonable attorneys' fees and costs.

24 7. Plaintiff, on behalf of herself and all proposed class members, pursuant to Business &
25 Professions Code §§17200-17208, also seeks injunctive relief, restitution, and disgorgement of all
26 benefits defendants enjoyed from their failure to provide rest period compensation and other wage
27 compensation.

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II

PARTIES

A. Plaintiff

8. Venue as to each defendant is proper in this judicial district, pursuant to Code of Civil Procedure §395. Defendants operate several locations within Southern California. Defendants do business within Los Angeles County. The unlawful acts alleged herein have a direct effect on plaintiff and those similarly situated within the State of California and Los Angeles County.

9. Plaintiff **CHRISTINA CHORNOMUD** is a resident of California.

10. As an hourly employee, plaintiff **CHORNOMUD** was regularly required to:

(A) Work without receiving compensation for all hours worked including but not limited to, for work performed over eight (8) hours per day or forty (40) per week without being paid at premium overtime pay rates;

(B) Work without being provided a minimum ten (10)minute rest period for every four (4) hours or major fraction thereof worked and not being compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;

(D) Work without being provided an accurate itemized wage statements that reflects all deductions from payment of wages and accurately reporting total hours worked, including when the employee begins and ends each work period, meal periods, and total daily hours worked, by plaintiff and the members of the proposed class.

11. Defendants willfully failed to compensate plaintiff and others for wages at the termination of their employment with defendants.

B. Defendants

12. Defendant **FRY'S ELECTRONICS, INC.** is a California corporation operating in California. Defendant owns and operates several locations in the State of California. Defendant's corporate address is 600 E Brokaw Rd., San Jose, CA 95112. Defendant employed plaintiff and similarly situated persons as a hourly employee within California.

13. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to plaintiff, who therefore

1 sues defendants by such fictitious names under Code of Civil Procedure §474. Plaintiff is informed and
2 believes, and based thereon alleges, that each of the defendants designated herein as a DOE is legally
3 responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court
4 to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter
5 as DOES when such identities become known.

6 14. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted
7 in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme,
8 business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally
9 attributable to the other defendants. Furthermore, defendants in all respects acted as the employer and/or
10 joint employer of plaintiff and the proposed class.

11 III

12 FACTUAL BACKGROUND

13 15. Plaintiff and the Class are, and at all times pertinent hereto, have been non-exempt
14 employees within the meaning of the California Labor Code, and the implementing rules and regulations
15 of the IWC California Wage Orders. Defendant hires employees who work as a "hourly employees."

16 16. Plaintiff and the class worked without receiving compensation for all hours worked and
17 were not paid overtime when hourly employees are entitled under the law to this premium rate of pay.

18 17. Plaintiff and the Class have rest periods for work days in excess of four (4) without being
19 provided a rest period and were not compensated one hours wages in lieu thereof.

20 18. Defendant did not fully compensate the proposed class for defendant's failure to provide
21 rest periods. Defendant's requirement that plaintiff and the proposed class work through rest periods
22 without paying legal compensation for failure to provide rest periods was willful and deliberate.

23 19. Defendant has failed to comply with Industrial Welfare Commission ("IWC") Wage Order
24 7-2001(7) by failing to maintain time records showing when the employee begins and ends each work
25 period, meal periods, and total daily hours worked by itemizing in wage statements all deductions from
26 payment of wages and accurately reporting total hours worked by plaintiff and the members of the
27 proposed class.

28 20. Plaintiff and the proposed class are, and at all times pertinent hereto, have been

1 non-exempt employees within the meaning of the California Labor Code, and the implementing rules
2 and regulations of the IWC California Wage Orders.

3 21. Plaintiff and the class are covered by California Industrial Welfare Commission
4 Occupational Wage Order No. 7-2001, California Industrial Welfare Commission in No. 7 (Title 8 Cal.
5 Code of Reg. §§11070).

6 IV

7 **CLASS ACTION ALLEGATIONS**

8 22. Plaintiff brings this action on behalf of herself and all others similarly situated as a Class
9 Action pursuant to §382 of the Code of Civil Procedure. Plaintiff seeks to represent a class defined as
10 follows:

11 All persons who are employed or have been employed, and who have
12 worked as an hourly employee for FRY'S in the State of California since
four (4) years prior to the filing of this action.

13 23. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or
14 modify the class description with greater specificity or further division into subclasses or limitation to
15 particular issues.

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

19 **A. Numerosity**

20 25. The potential members of the proposed class as defined are so numerous that joinder of
21 all the members of the proposed class is impracticable. While the precise number of proposed class
22 members has not been determined at this time, plaintiff is informed and believes that defendants
23 currently employ, and during the relevant time periods employed, over 100 hourly employees.

24 26. Plaintiff alleges defendants' employment records would provide information as to the
25 number and location of all proposed class members. Joinder of all members of the proposed class is not
26 practicable.

27 **B. Commonality**

28 27. There are questions of law and fact common to the proposed class that predominate over

1 any questions affecting only individual class members. These common questions of law and fact
2 include, without limitation:

3 (A) Whether defendants failed to pay wages and/or overtime compensation as required
4 by the Labor Code and Wage Orders for all hours worked;

5 (B) Whether defendants violated Labor Code §226.7, Wage Order 7-2001 or other
6 applicable IWC Wage Orders, by failing to provide daily rest periods for every four (4) hours or major
7 fraction thereof worked and failing to compensate said employees one (1) hours wages in lieu of rest
8 periods;

9 (C) Whether defendants violated Labor Code §226(a) and Wage Order 7-2001(7) or
10 other applicable IWC Wage Orders by failing to maintain time records showing when the employee
11 begins and ends each work period, meal periods, and total daily hours worked by itemizing in wage
12 statements all deductions from payment of wages and accurately reporting total hours worked by plaintiff
13 and the members of the proposed class;

14 (D) Whether defendants violated §§201-203 of the Labor Code by failing to pay
15 compensation due and owing at the time that any proposed class member's employment with defendants
16 terminated;

17 (E) Whether defendants violated §17200 et seq. of the Business & Professions Code
18 by failing to provide wages and compensation to restaurant employees

19 (F) Whether plaintiff and the members of the proposed class are entitled to equitable
20 relief pursuant to Business & Professions Code §17200, et. seq.; and

21 (G) Whether Defendants violated §2699 of the Labor Code by committing the acts
22 alleged by Plaintiff above which she alleges were themselves violations of the Labor Code.

23 **C. Typicality**

24 28. The claims of the named plaintiff are typical of the claims of the proposed class. Plaintiff
25 and all members of the proposed class sustained injuries and damages arising out of and caused by
26 defendants' common course of conduct in violation of laws, regulations that have the force and effect
27 of law and statutes as alleged herein.

28 ///

1 violated the provisions of Labor Code §510.

2 35. As a result of the unlawful acts of defendants, plaintiff has been deprived of wages and/or
3 overtime in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest
4 and penalties thereon, pursuant to Labor Code §§510, 1194 and 1199.

5 VI

6 **SECOND CAUSE OF ACTION**

7 **FAILURE TO ALLOW REST BREAKS PURSUANT TO LABOR CODE §226.7**

8 36. Plaintiff repeats and realleges each and every allegation set forth in all of the foregoing
9 paragraphs as if fully set forth herein.

10 37. Labor Code §226.7 requires an employer to pay an additional hour (1) of compensation
11 for each rest period the employer fails to provide. Employees are entitled to a paid ten (10) minute rest
12 break for every four (4) hours worked. Plaintiff and the class consistently worked over four (4) hours
13 per shift with no rest breaks.

14 38. Defendants failed to provide plaintiff and others with rest breaks of not less than ten (10)
15 minutes as required by the Labor Code during the relevant class period.

16 39. Pursuant to Labor Code §226.7, plaintiff and the class are entitled to damages in an
17 amount equal to one (1) hour of wages per missed rest break, in a sum to be proven at trial.

18 VII

19 **THIRD CAUSE OF ACTION**

20 **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS**

21 **UNDER LABOR CODE §226**

22 40. Plaintiff repeats and realleges each and every allegation set forth in all of the foregoing
23 paragraphs as if fully set forth herein.

24 41. California Labor Code §226(a) requires employers to itemize in wage statements, all
25 deductions from payment of wages, and to accurately report total hours worked by employees.
26 Defendants have knowingly and intentionally failed to comply with Labor Code §226(a) on each and
27 every wage statement that was provided to Plaintiff.

28 42. An employee suffering injury as a result of a knowing and intentional failure by an

1 employer to comply with Labor Code §226(a) is entitled to recover the greater of all actual damages or
2 fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100)
3 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four
4 thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

5 **VIII**

6 **FOURTH CAUSE OF ACTION**

7 **WAITING TIME PENALTIES UNDER LABOR CODE §203**

8 43. Plaintiff repeats and realleges each and every allegation set forth in all of the foregoing
9 paragraphs as if fully set forth herein.

10 44. Numerous members of the proposed class including plaintiff are no longer employed by
11 defendants. They were either fired or quit defendants employ.

12 45. The defendants' failure to pay wages, as alleged above was willful in that defendants and
13 each of them knew wages to be due but failed to pay them, thus entitling plaintiff and the proposed class
14 to penalties under Labor Code §203, which provides that an employee's wages shall continue as a penalty
15 until paid for a period of up to thirty (30) days from the time they were due.

16 46. Defendants have failed to pay plaintiff and others a sum certain at the time of termination
17 or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30)
18 days thereafter. Pursuant to the provisions of Labor Code §203, plaintiff and the proposed class entitled
19 to penalties in the amount of plaintiff's and others' daily wage multiplied by thirty (30) days.

20 **IX**

21 **FIFTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION PURSUANT TO**

23 **BUSINESS & PROFESSIONS CODE §17200**

24 47. Plaintiff repeats and realleges each and every allegation set forth in all of the foregoing
25 paragraphs as if fully set forth herein.

26 48. This is a Representative Private Attorney General Action and Class Action for Unfair
27 Business Practices. Plaintiff **CHRISTINA CHORNOMUD** on her own behalf and on behalf of the
28 general public, and on behalf of others similarly situated, brings this claim pursuant to Business &

1 Professions Code §17200, et seq. The conduct of all defendants as alleged in this Complaint has been
2 and continues to be unfair, unlawful, and harmful to plaintiff, the general public, and the proposed class.
3 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of
4 Civil Procedure §1021.5.

5 49. Plaintiff is a "person" within the meaning of Business & Professions Code §17204, and
6 therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate
7 equitable relief.

8 50. Business & Profession Code §17200, et seq. prohibits unlawful and unfair business
9 practices.

10 51. Wage and hour laws express fundamental public policies. Providing employees with
11 wages and/or overtime for all hours worked, rest breaks, and providing accurate itemized records are
12 fundamental public policies of this State and of the United States. Labor Code §90.5(a) articulates the
13 public policies of this State to enforce vigorously minimum labor standards, to ensure that employees
14 are not required or permitted to work under substandard and unlawful conditions, and to protect law-
15 abiding employers and their employees from competitors who lower their costs by failing to comply with
16 minimum labor standards.

17 52. Defendants have violated statutes and public policies including, as set forth above,
18 violation of Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 1194, and 1199. Through the
19 conduct alleged in this Complaint, defendants, and each of them, have acted contrary to these public
20 policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and
21 unfair business practices in violation of Business & Profession Code §17200, et seq., depriving plaintiff,
22 and all persons similarly situated, and all interested persons of rights, benefits, and privileges guarantees
23 to all employees under law.

24 53. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in violation
25 of §17200 et. seq. of the Business & Professions Code.

26 54. Defendants by engaging in the conduct herein alleged, by not providing proper wages, and
27 breaks either knew or in the exercise of reasonable care should have known that the conduct was
28 unlawful. As such it is a violation of §17200 et. seq. of the Business & Professions Code.

1 55. As a proximate result of the above mentioned acts of defendants, plaintiff and others
2 similarly situated have been damaged in a sum as may be proven.

3 56. Unless restrained by this Court, defendants will continue to engage in the unlawful
4 conduct as alleged above. Pursuant to Business & Professions Code this Court should make such orders
5 or judgments, including the appointment of a receiver, as may be necessary to prevent the use or
6 employment, by defendants, their agents or employees, of any unlawful or deceptive practice prohibited
7 by the Business & Professions Code, and/or, including but not limited to, disgorgement of profits which
8 may be necessary to restore plaintiff and the proposed class members to the money defendants have
9 unlawfully failed to pay.

10 X

11 **SIXTH CAUSE OF ACTION**

12 **PENALTIES PURSUANT TO LABOR CODE §2699**

13 57. Plaintiff repeats and realleges each and every allegation set forth in all of the foregoing
14 paragraphs as if fully set forth herein.

15 58. As a result of the acts alleged above, Plaintiffs seek penalties under California Labor Code
16 §2698, et seq. because of Defendants' violation of Labor Code §§201, 202, 203, 226, 226.7, 510, 512,
17 1194, and 1199.

18 59. For each such violation, Plaintiffs and the proposed class are entitled to penalties in an
19 amount to be shown at the time of trial subject to the following formula:

20 a. For \$100 for the initial violation per employee per pay period.

21 b. For \$200 for each subsequent violation per employee per pay period

22 60. These penalties shall be allocated 75% to the Labor and Workforce Development Agency
23 and 25% to the affected employees.

24 61. Plaintiff sent a certified letter to the LWDA and Defendants as prescribed by the Code on
25 November 10, 2009. As no letter evidencing the LWDA's intention to investigate was received within
26 33 calendar days, Plaintiffs are entitled to commence a civil action as though the LWDA had chosen not
27 to investigate per §2699.3(a)(2)(A). Therefore, under Labor Code §2699.3(a)(2)(A), Plaintiffs may
28 proceed and file a complaint for penalties pursuant to Labor Code §2699.

1
2 **RELIEF REQUESTED**

3 **WHEREFORE**, plaintiff prays for the following relief:

- 4 1. For wages and/or overtime in an amount according to proof, with interest thereon;
- 5 2. For compensatory damages in the amount of plaintiff's and each class members' hourly
6 wage for each shift where rest period(s) were missed from at least four (4) years prior to the filing of this
7 action to the present as may be proven;
- 8 3. For penalties for failing to provide Plaintiff and each class members with itemized wage
9 statements from at least four (4) years prior to the filing of this action to the present as may be proven;
- 10 4. For penalties pursuant to Labor Code §203 for all employees who quit or were fired equal
11 to their daily wage times thirty (30) days;
- 12 5. For penalties pursuant to Labor Code §2699 pursuant to the statutory formula per Labor
13 Code violation;
- 14 6. An award of prejudgment and post judgment interest;
- 15 7. An order enjoining defendant and its agents, servants, and employees, and all persons
16 acting under, in concert with, or for it from failing to provide plaintiff and the class with proper rest
17 breaks, and providing accurate itemized records pursuant to Labor Code §§226(a), 226.7, 510, and IWC
18 7-2001;
- 19 8. For restitution for unfair competition pursuant to Business & Professions Code §17200,
20 including disgorgement or profits, in an amount as may be proven;
- 21 9. An award providing for payment of costs of suit;
- 22 10. An award of attorneys' fees; and
- 23 11. Such other and further relief as this Court may deem proper and just.

24
25 **DEMAND FOR JURY TRIAL**

26 Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

27 DATED: January 7, 2010

KINGSLEY & KINGSLEY, APC

28 By: Elana R. Levine
ELANA R. LEVINE
ATTORNEY FOR PLAINTIFFS