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Los Angeles Superior Court

JUL 07 2005

John A. Clarke, Executive Officer/Clerk  
By \_\_\_\_\_, Deputy  
**J. SUNGA**

7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF LOS ANGELES

10 HARMON T. SHARP, III, TROY DEVOLLD,  
11 SARAH LEVINE, MICHAEL M. GARA,  
EDUARDO PENNA, EMILY SINCLAIR, J.  
12 RYAN STRADAL, KEVIN THOMAS, THOMAS  
L. HIETTER, NICOLE L. HEDLUND,  
13 CHRISTIAN T. HUBER, BRIAN GIBSON,  
individually and on behalf of a class of others  
14 similarly situated,

15 Plaintiffs,

16 v.

17 NEXT ENTERTAINMENT, INC.;  
TELEPICTURES PRODUCTIONS, INC., AND  
18 SYNDICATED PRODUCTIONS, INC., DAWN  
SYNDICATED PRODUCTIONS, INC.,  
19 AMERICAN BROADCASTING COMPANY,  
INC.; CBS BROADCASTING, INC.; WB  
20 BROADCASTING NETWORK; TURNER  
BROADCASTING SYSTEM, INC., and DOES 1-  
21 100 INCLUSIVE,

22 Defendants.

CASE NO. BC336170

COMPLAINT [CLASS ACTION]

- [1] FAILURE TO PAY OVERTIME  
(Labor Code § 510; IWC Order No.  
12-2000 § 3)
- [2] NON-PAYMENT OF WAGES  
(Labor Code § 204)
- [3] DENIAL OF MEAL PERIODS  
(Labor Code §§ 226.77 & 512; IWC  
Order No. 12-2000 § 11)
- [4] FAILURE TO PROVIDE  
ITEMIZED WAGE STATEMENTS  
(Labor Code § 226)
- [5] RECORD KEEPING VIOLATIONS  
(Labor Code § 1174; IWC Order No.  
12-2000 § 7)

DEMAND FOR JURY TRIAL

23  
24  
25 On behalf of themselves and all others similarly situated, plaintiffs allege as follows:

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1 **I. INTRODUCTION**

2

3 1. Television networks and production companies have made so-called "reality"

4 television profitable and pervasive at the expense of the employees who craft the stories we

5 watch. The companies have conspired to deprive these employees of the most basic protections

6 of California's wage and hour laws. The conditions in the industry resemble sweatshops:

7 employees work ten-, 12- and even 20-hour days, six or seven days per week, without overtime

8 compensation or breaks and meal periods as required by law. Frequently, the companies attempt

9 to disguise their violations by purporting to pay employees for a "guaranteed" 84-hour work

10 week. Such an arrangement is, in fact, a fraudulent scheme, enabling the companies to require

11 *any* amount of work, under relentless time pressures, without any additional compensation.

12

13 2. The eight reality television series that are the subject of this action have two

14 common producers, defendant Next Entertainment, Inc. ("Next") and defendant Telepictures

15 Productions, Inc. ("Telepictures"). In concert with related production companies and the

16 television networks that set the budgets and broadcast the shows, Next and Telepictures have

17 implemented a set of employment practices that results in systematic violations of the California

18 Labor Code and Industrial Welfare Commission Wage ("IWC") Order 12, which regulates

19 working conditions in the motion picture industry. As alleged more fully below, these practices

20 are marked by the failure to pay overtime compensation, the willful falsification of or failure to

21 maintain payroll records, and the chronic failure to afford meal periods required by law. The

22 purpose of this suit is to restore to the plaintiffs and the members of the class they represent the

23 wages they have earned, and to end the companies' exploitative practices in this burgeoning and

24 profitable sector of the Hollywood economy.

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1 **II. THE PARTIES**

2  
3 **A. The Plaintiff Class.**

4  
5 3. The plaintiff class consists of employees engaged in the production of eight reality  
6 television series produced by Next and Telepictures and one or more of their co-defendants. The  
7 eight series are as follows:

- 8 a. The Bachelor;  
9 b. The Bachelorette;  
10 c. Are You Hot?  
11 d. Trista and Ryan's Wedding;  
12 e. The Two-Timer;  
13 f. The Will;  
14 g. The Starlet; and  
15 h. The Real Gilligan's Island.

16 These eight series are hereafter referred to collectively as "the Series." The class sought to be  
17 represented is defined as follows: all past and present employees of the defendants who have  
18 performed services relating to story development for the Series including, but not limited to,  
19 employees in the job titles of Assistant, Assistant Story Editor, Story Assistant, Story Editor,  
20 Story Producer, Segment Producer, Supervising Story Producer, Producer, and Senior Producer.  
21 As described herein, all members of this class have a beneficial interest in the relief sought by  
22 this complaint.

23  
24 **B. The Named Plaintiffs.**

25  
26 4. Plaintiff Harmon T. Sharp, III ("Sharp") is an individual over 18 years old and a  
27 resident of the County of Los Angeles. In or about April 2004 through June 2004, Sharp was  
28 employed on the reality television series "The Two-Timer" and given the job title of Story Editor.

1 In or about June 2004 through August 2004, Sharp was employed on the reality television series  
2 "The Will" and given the job title of Story Editor. In or about August 2004 through January  
3 2005, Sharp was employed on the reality television series "The Real Gilligan's Island" and given  
4 the job title of Story Producer. In or about February 2005 through April 2005, Sharp was  
5 employed on the reality television series "The Bachelor" and given the job title of Producer.

6

7           5.       Plaintiff Troy Devolld ("Devolld") is an individual over 18 years old and a  
8 resident of the County of Los Angeles. In or about August 2004 through November 2004,  
9 Devolld was employed on the reality television series "The Bachelor" and given the job title of  
10 Story Editor. In or about November 2004 through February 2005, Devolld was employed on the  
11 reality television series "The Bachelorette" and given the job title of Story Editor. In or about  
12 February 2005 through May 2005, Devolld was employed on the reality television series "The  
13 Bachelor" and given the job title of Story Producer.

14

15           6.       Plaintiff Sarah Levine ("Levine") is an individual over 18 years old and a resident  
16 of the County of Los Angeles. In or about January 2003 through February 2003, Levine was  
17 employed on the reality television series "The Bachelor" and given the job title of Story Editor.  
18 In or about August 2004 through November 2004, Levine was employed on the reality television  
19 series "The Bachelor" and given the job title of Story Producer. In or about November 2004  
20 through February 2005, Levine was employed on the reality television series "The Bachelorette"  
21 and given the job title of Story Producer. In or about February 2005 through April 2005, Levine  
22 was employed on the reality television series "The Bachelor" and given the job title of Story  
23 Producer.

24

25           7.       Plaintiff Michael M. Gara ("Gara") is an individual over 18 years old and a  
26 resident of the County of Los Angeles. In or about July 2004 through November 2004, Gara was  
27 employed on the reality television series "The Will" and given the job title of Assistant Story

28 ///

1 Editor. In or about December 2004 through March 2005, Gara was employed on the reality  
2 television series "The Starlet" and given the job title of Story Producer.

3

4 8. Plaintiff Eduardo Penna ("Penna") is an individual over 18 years old and a  
5 resident of the County of Los Angeles. In or about October 2004 through November 2004, Penna  
6 was employed on the reality television series "The Real Gilligan's Island" and given the job title  
7 of Story Assistant. In or about November 2004 through December 2004, Penna was employed on  
8 the reality television series "The Starlet" and given the job title of Story Assistant.

9

10 9. Plaintiff Emily Sinclair ("Sinclair") is an individual over 18 years old and a  
11 resident of the County of Los Angeles. In or about December 2002 through February 2003,  
12 Sinclair was employed on the reality television series "Are You Hot?" and given the job title of  
13 Segment Producer.

14

15 10. Plaintiff J. Ryan Stradal ("Stradal") is an individual over 18 years old and a  
16 resident of the County of Los Angeles. In or about early January through mid-February 2003,  
17 Stradal was employed on the reality television series "The Bachelorette" and given the job title of  
18 Story Editor. In or about June 2003 through November 2003, Stradal was employed on the  
19 reality television series "Trista and Ryan's Wedding" and given the job titles of Story Editor and  
20 Story Producer. In or about November 2003 through February 2004, Stradal was employed on  
21 the reality television series "The Bachelorette" and given the job title of Story Producer.

22

23 11. Plaintiff Kevin Thomas ("Thomas") is an individual over 18 years old and a  
24 resident of the County of Los Angeles. In or about February 2004 through July 2004, Thomas  
25 was employed on the reality television series "The Two-Timer" and given the job title of Senior  
26 Producer.

27 ///

28 ///

1           12.     Plaintiff Thomas L. Hietter ("Hietter") is an individual over 18 years old and a  
2 resident of the County of Los Angeles. In or about December 2003 through February 2004,  
3 Hietter was employed on the reality television series "The Bachelorette" and given the job title of  
4 Assistant Story Editor. In or about February 2004 through June 2004, Hietter was employed on  
5 the reality television series "The Two-Timer" and given the job title of Assistant. In or about  
6 July 2004 through October 2004, Hietter was employed on the reality television series "The Will"  
7 and given the job title of Story Editor. In or about December 2004 through March 2005, Hietter  
8 was employed on the reality television series "The Starlet" and given the job title of Story  
9 Producer.

10  
11           13.     Plaintiff Nicole L. Hedlund ("Hedlund") is an individual over 18 years old and a  
12 resident of the County of Los Angeles. In or about December 2004 through March 2004,  
13 Hedlund was employed on the reality television series "The Starlet" and given the job title of  
14 Story Editor.

15  
16           14.     Plaintiff Christian T. Huber ("Huber") is an individual over 18 years old and a  
17 resident of the County of Los Angeles. In or about July 2004 through November 2004, Huber  
18 was employed on the reality television series "The Will" and given the job title of Story Editor.  
19 In or about November 2004 through March 2005, Huber was employed on the reality television  
20 series "The Starlet" and given the job title of Story Producer.

21  
22           15.     Plaintiff Brian Gibson ("Gibson") is an individual over 18 years old and a resident  
23 of the County of Los Angeles. In or about June 2004 through November 2004, Gibson was  
24 employed on the reality television series "The Will" and given the job title of Supervising Story  
25 Producer. In or about November 2004 through March 2005, Gibson was employed on the reality  
26 television series "The Starlet" and given the job title of Supervising Story Producer.

27     ///

28     ///

1 **C. The Defendants.**

2  
3 16. Defendant Next Entertainment, Inc. ("Next") is a California corporation. At all  
4 material times, Next engaged in television production in the County of Los Angeles. Through its  
5 direct or indirect control of their wages, hours, and working conditions, Next was at all material  
6 times an employer of members of the plaintiff class on the following reality television series:  
7 "Are You Hot?," "The Bachelor," "The Bachelorette," "Trista and Ryan's Wedding," "The Two-  
8 Timer," "The Will," "The Starlet," and "The Real Gilligan's Island."

9  
10 17. Defendant Telepictures Productions, Inc. ("Telepictures") is a Delaware  
11 corporation engaged in the production of television programs. At all material times, Telepictures  
12 engaged in television production in the County of Los Angeles. Through its direct or indirect  
13 control of their wages, hours, and working conditions, Telepictures was at all material times an  
14 employer of members of the plaintiff class on the following reality television series: "Are You  
15 Hot?," "The Bachelor," "The Bachelorette," "Trista and Ryan's Wedding," "The Two-Timer,"  
16 "The Will," "The Starlet," and "The Real Gilligan's Island."

17  
18 18. Defendant AND Syndicated Production, Inc. ("AND") is a California corporation.  
19 At all material times, AND engaged in television production in the County of Los Angeles.  
20 Through its direct or indirect control of their wages, hours, and working conditions, AND was at  
21 all material times an employer of members of the plaintiff class on the following reality  
22 television series: "Are You Hot?," "The Bachelor," "The Bachelorette," "Trista and Ryan's  
23 Wedding," "The Will," "The Starlet," and "The Real Gilligan's Island."

24  
25 19. Defendant Dawn Syndicated Productions, Inc. ("Dawn") is a Delaware  
26 corporation. At all material times, Dawn engaged in television production in the County of Los  
27 Angeles. Through its direct or indirect control of their wages, hours, and working conditions,

28 ///

1 Dawn was at all material times an employer of members of the plaintiff class on the following  
2 reality television series: "The Real Gilligan's Island."

3  
4 20. Defendant American Broadcasting Company, Inc. ("ABC") is a Delaware  
5 corporation doing business as a broadcast television network. At all material times, ABC  
6 engaged in broadcasting and television production in the County of Los Angeles. Through its  
7 direct or indirect control of their wages, hours, and working conditions, ABC was at all material  
8 times an employer of members of the plaintiff class on the following reality television series:  
9 "Are You Hot?," "The Bachelor," "The Bachelorette," "Trista and Ryan's Wedding," and "The  
10 Two-Timer."

11  
12 21. Defendant CBS Broadcasting, Inc. ("CBS") is a Delaware corporation doing  
13 business as a broadcast television network. At all material times, CBS engaged in television  
14 broadcasting and production in the County of Los Angeles. Through its direct or indirect control  
15 of their wages, hours, and working conditions, CBS was at all material times an employer of  
16 members of the plaintiff class on the following reality television series: "The Will."

17  
18 22. Defendant Turner Broadcasting System, Inc. ("TBS") is a Georgia corporation  
19 doing business as a cable television network. At all material times, TBS engaged in television  
20 production in the County of Los Angeles. Through its direct or indirect control of their wages,  
21 hours, and working conditions, TBS was at all material times an employer of members of the  
22 plaintiff class on the following reality television series: "Real Gilligan's Island."

23  
24 23. Defendant WB Television Network ("WB") is a limited partnership doing  
25 business as a broadcast television network. At all material times, WB engaged in television  
26 broadcasting and production in the County of Los Angeles. Through its direct or indirect control  
27 of their wages, hours, and working conditions, WB was at all material times an employer of  
28 members of the plaintiff class on the following reality television series: "The Starlet."



1 **B. Community of Interest.**

2  
3 27. The proposed class has a well defined community of interest in the questions of  
4 fact and law to be litigated. The common questions of law and fact are predominant with respect  
5 to the liability issues, relief issues, and anticipated affirmative defenses. The named plaintiffs  
6 have claims typical of the class members. The named plaintiffs can fairly and adequately  
7 represent and protect the interests of the class in that there is no conflict between their interests  
8 and the interests of other class members, this action is not collusive, the named plaintiffs and  
9 their counsel have the necessary resources to litigate this action, and counsel have the experience  
10 and ability required to prosecute this case as a class action.

11  
12 **C. Superiority of Class Adjudication.**

13  
14 28. The certification of a class in this action is superior to the litigation of a multitude  
15 of cases by members of the putative class. Class adjudication will conserve judicial resources  
16 and will avoid the possibility of inconsistent rulings. Moreover, there are class members who are  
17 unlikely to join or bring an action due to, among other reasons, their reluctance to sue their  
18 current or former employer and/or their inability to afford a separate action. Finally, equity  
19 dictates that all persons who stand to benefit from the relief sought herein should be subject to  
20 the lawsuit and hence subject to an order spreading the costs of litigation among the class  
21 members in relationship to the benefits received.

22  
23 **V. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

24  
25 29. The plaintiffs in this action perform a variety of storytelling functions in the  
26 production of reality television series. During the filming of reality programs, plaintiffs are on  
27 the set, making suggestions and taking story notes that will be used later to shape the editing  
28 process. In post-production, plaintiffs use the numerous hours of video footage to create a story,

1 one that they craft by editing scenes, dialogue, and even individual words that are spliced  
2 together to provide the desired plot development. Each reality television series has a "story  
3 department" made up of plaintiffs having job titles such as Story Editor or Story Producer who  
4 perform these storytelling tasks. The "paper cut" or episode outline crafted by these plaintiffs is  
5 then reviewed and critiqued by several tiers of producers, including network executives who have  
6 final approval over their content.

7  
8 30. Defendants followed identical or substantially identical payroll practices with  
9 respect to their employment of plaintiffs on the Series. For each reality television series subject  
10 to this suit, defendants hired plaintiffs based on a flat weekly pay rate. Once hired, plaintiffs  
11 were required to falsify their time cards, either by simply writing the term "WORKED" across a  
12 weekly time card or by entering pre-determined start and end times for each day of the week. In  
13 fact, plaintiffs worked far in excess of 40 hours per week during virtually every week of their  
14 employment, but they never received any premium overtime pay. In many instances, defendants  
15 attempted to conceal this unlawful practice by reflecting fictitious overtime hours on plaintiffs'  
16 pay stubs. However, the fictitious overtime hours were not based on actual hours worked by the  
17 employee during the payroll period, nor was the overtime compensation based, as required by  
18 law, on the employee's actual hourly rate (*i.e.*, the weekly rate divided by 40). Under this  
19 fraudulent scheme, plaintiffs invariably received their flat weekly rate, regardless of the number  
20 of hours actually worked in the pay period.

21  
22 31. In the course of their employment on the Series, plaintiffs were routinely denied  
23 appropriate meal periods as required by IWC Order No. 12-2000 § 11.

24 ///

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26 ///

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME**

3 (Labor Code § 510; IWC Order No. 12-2000 § 3)

4  
5 32. Plaintiffs reallege and incorporate paragraphs 1 through 31, inclusive, as though  
6 fully set forth herein.

7  
8 33. Labor Code § 510(a) provides that "[a]ny work in excess of eight hours in one  
9 workday and any work in excess of 40 hours in any one workweek and the first eight hours  
10 worked on the seventh day of work in any one workweek shall be compensated at the rate of no  
11 less than one and one-half times the regular rate of pay for any employee."

12  
13 34. Labor Code § 510(a) also provides that "[a]ny work in excess of 12 hours in one  
14 day shall be compensated at the rate of no less than twice the regular rate of pay for an  
15 employee."

16  
17 35. Labor Code § 515(d) provides that for the purposes of computing the overtime  
18 rate of compensation for an employee, the employee's regular hourly rate shall be 1/40<sup>th</sup> of the  
19 employee's weekly salary.

20  
21 36. IWC Order No. 12-2000, § 3(A) provides that "employees shall not be employed  
22 more than eight (8) hours in any workday or more than forty (40) hours in any workweek unless  
23 the employee receives one and one-half (1½) times such employee's regular rate of pay for all  
24 hours worked over forty (40) hours in the workweek."

25  
26 37. IWC Order No. 12-2000, § 3(A)(1)(b) also provides that employers must  
27 "[d]ouble the employee's regular rate of pay for all hours worked in excess of twelve (12) hours

28 ///

1 in any workday, and for all hours worked in excess of eight (8) hours on the seventh (7<sup>th</sup>)  
2 consecutive day of work in a workweek."

3  
4 38. Plaintiffs have worked over 40 hours per week and over eight hours per day,  
5 without receiving overtime pay as required under Labor Code § 510 and IWC Order No. 12-2000  
6 § 3, and without being calculated according to Labor Code § 515(d).

7  
8 39. Labor Code § 1194 provides for a private right of action to recover unpaid  
9 overtime compensation, interest, attorney's fees, and costs of suit. Plaintiffs seek to recover all  
10 unpaid overtime wages and interest due to them, as well as attorney's fees and costs, under this  
11 section.

12  
13 40. Labor Code § 558 and IWC Order No. 12-2000 § 20 provide for civil penalties, in  
14 the amount of \$50 per initial violation for each underpaid employee, and \$100 per subsequent  
15 violation for each underpaid employee, in addition to an amount sufficient to recover unpaid  
16 wages. Plaintiffs seek to recover penalties on behalf of themselves and the people of the State of  
17 California.

18  
19 **SECOND CAUSE OF ACTION**

20 **NON-PAYMENT OF WAGES EARNED**

21 (Labor Code § 204)

22  
23 41. Plaintiffs reallege and incorporate paragraphs 1 through 31, inclusive, as though  
24 fully set forth herein.

25  
26 42. Labor Code § 204 provides that employers must pay wages twice during each  
27 calendar month, on regular paydays to be designated in advance.

28 ///

1 43. Defendants failed to pay plaintiffs all wages earned in their employment on  
2 regular paydays, as established by Labor Code § 204. Defendants' failure to pay includes, but is  
3 not limited to, failing to pay all hours worked and failing to pay premium overtime rates.

4  
5 44. Labor Code § 218 provides for a private right of action "for any wage claimant to  
6 sue directly . . . for any wages or penalty due . . . ." Plaintiffs seek to recover unpaid wages and  
7 penalties under this section.

8  
9 45. Labor Code § 210 provides civil penalties for violations of § 204 in the amount of  
10 \$100 per initial violation, and for each subsequent violation or any willful or intentional  
11 violation, \$200 for each failure to pay each employee, plus 25% of the amount unlawfully  
12 withheld. Plaintiffs seek to recover penalties for defendants' willful and intentional violations on  
13 behalf of themselves and the people of the State of California.

14  
15 46. Labor Code § 218.5 states that in "any action brought for the nonpayment of  
16 wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award  
17 reasonable attorneys' fees and costs to the prevailing party . . . ." Plaintiffs seek to recover  
18 attorneys' fees and costs under this section.

19  
20 **THIRD CAUSE OF ACTION**

21 **FAILURE TO PROVIDE MEAL PERIODS**

22 (Labor Code §§ 226.77 & 512; IWC Order No. 12-2000 § 11)

23  
24 47. Plaintiffs reallege and incorporate paragraphs 1 through 31, inclusive, as though  
25 fully set forth herein.

26  
27 48. Labor Code § 512(a) requires employers to provide employees with a meal period  
28 of at least 30 minutes for each work period of more than five hours and two meal periods, each of

1 at least 30 minutes, for each work period of more than ten hours. Failure to provide such a meal  
2 period is a misdemeanor under Labor Code § 553.

3  
4 49. IWC Order No. 12-2000 § 11 provides that an employer may not "employ any  
5 person for a work period of more than six (6) hours without a meal period of not less than thirty  
6 (30) minutes . . . ."

7  
8 50. Labor Code § 226.7 prohibits employers from requiring employees to work  
9 through any meal or rest period mandated by an IWC Order.

10  
11 51. Defendants failed to provide plaintiffs with meal periods as required by Labor  
12 Code §§ 226.7 and 512(a), and IWC Order No. 12-2000 § 11.

13  
14 52. Labor Code § 218 provides for a private right of action "for any wage claimant to  
15 sue directly . . . for any wages or penalty due . . . ." Plaintiffs seek to recover unpaid wages and  
16 penalties under this section.

17  
18 53. Labor Code § 226.7 and IWC Order No. 12-2000 § 11(c) provide that an employer  
19 who fails to provide an employee with a required meal period shall pay the employee one  
20 additional hour of pay at the employee's regular rate of compensation for each work day that the  
21 meal period is not provided. Plaintiffs seek to recover compensation due to them under this  
22 provision.

23  
24 54. Labor Code § 558 and IWC Order No. 12-2000 § 20 provide civil penalties for  
25 violations of the meal period requirement that result in underpayment. The employer shall be  
26 penalized in the amount of \$50 per initial violation for each underpaid employee, and \$100 per  
27 subsequent violation for each underpaid employee, in addition to an amount sufficient to recover

28 ///

1 unpaid wages. Plaintiffs seek to recover penalties on behalf of themselves and the people of the  
2 State of California.

3  
4 55. Labor Code § 218.5 states that in "any action brought for the nonpayment of  
5 wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award  
6 reasonable attorneys' fees and costs to the prevailing party . . . ." Plaintiffs seek to recover  
7 attorneys' fees and costs under this section.

8  
9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS**

11 (Labor Code § 226)

12  
13 56. Plaintiffs reallege and incorporate paragraphs 1 through 31, inclusive, as though  
14 fully set forth herein.

15  
16 57. Labor Code § 226(a) requires employers to provide employees an accurate  
17 itemized wage statement semi-monthly or at the time of payment of wages. Such statement must  
18 identify the employee and employer and reflect gross and net wages, hours worked, deductions  
19 and inclusive dates. Failure to provide such a statement constitutes a misdemeanor under Labor  
20 Code § 226.6.

21  
22 58. The wage statements provided to plaintiffs by defendants did not accurately reflect  
23 hours worked or actual gross or net wages earned.

24  
25 59. Labor Code § 218 provides for a private right of action "for any wage claimant to  
26 sue directly . . . for any wages or penalty due . . . ." Plaintiffs seek to recover unpaid wages and  
27 penalties under this section.

28 ///

1           60.    Labor Code § 226(e) provides for recovery of the greater of all actual damages or  
2 \$50 for the initial pay period in which a violation occurs and \$100 per employee for each  
3 violation in a subsequent pay period, up to an aggregate of \$4000. The employee is also entitled  
4 to costs and attorneys' fees. Plaintiffs seek to recover damages, costs, and attorney's fees under  
5 this provision.

6  
7           61.    Labor Code § 226.3 provides civil penalties in the amount of \$250 per initial  
8 violation and \$1000 per employee for each subsequent violation. Plaintiffs seek to recover  
9 penalties on behalf of themselves and the people of the State of California.

10  
11

**FIFTH CAUSE OF ACTION**

12

**RECORD KEEPING VIOLATIONS**

13

(Labor Code § 1174; IWC Order No. 12-2000 § 7)

14

15           62.    Plaintiffs reallege and incorporate paragraphs 1 through 31, inclusive, as though  
16 fully set forth herein.

17

18           63.    Labor Code § 1174(d) requires employers to keep payroll records showing the  
19 daily hours worked by and wages paid to employees. Failure to keep such records is a  
20 misdemeanor under Labor Code § 1175(d).

21

22           64.    IWC Order No. 12-2000 § 7 requires employers to keep records showing each  
23 employee's pay rates, wages, and daily work schedules; and the total hours worked during each  
24 payroll period by each employee.

25

26           65.    Defendants instructed plaintiffs to falsify their time cards, either by reporting no  
27 hours and simply writing "WORKED" on the time card, or by filling in standard hours pre-  
28 determined by defendants, regardless of the actual hours worked by plaintiffs. These time cards

1 did not meet the record-keeping requirements of Labor Code § 1174(d) or IWC Order No. 12-  
2 2000 § 7.

3

4 66. Labor Code § 1174.5 provides that an employer who willfully fails to maintain the  
5 records required under § 1174(d) shall be subject to a civil penalty of \$500.

6

7 67. IWC Order No. 12-2000 § 20 provides additional civil penalties for record-  
8 keeping violations that result in underpayment. The employer shall be penalized in the amount of  
9 \$50 per initial violation for each underpaid employee, and \$100 per subsequent violation for each  
10 underpaid employee, in addition to an amount sufficient to recover unpaid wages. Plaintiffs seek  
11 to recover penalties on behalf of themselves and the people of the State of California.

12

13

**PRAYER FOR RELIEF**

14

15 **WHEREFORE**, plaintiffs pray that this Court enter judgment against defendants as  
16 follows:

17


- 18 1. Unpaid wages and overtime premiums, according to proof;
- 19
- 20 2. Liquidated damages in an amount equal to the wages and overtime premiums plus  
21 interest due to plaintiffs pursuant to Labor Code § 1194.2(a);
- 22
- 23 3. Civil penalties pursuant to Labor Code §§ 210, 226.3, 558, and 1174.5; and IWC  
24 Order No. 12-2000;
- 25
- 26 4. General, compensatory, and special damages, according to proof;
- 27
- 28 5. Punitive damages, according to proof;

1  
2  
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- 6. Interest accrued on damages and penalties pursuant to Civil Code § 3287 and for the costs incurred in this action;
- 7. Reasonable attorneys' fees and costs pursuant to Labor Code §§ 218.5, 226(e), 558 and 1194; and
- 8. Such other relief as the Court deems proper.

Dated: July 6, 2005

ANTHONY R. SEGALL  
EMMA LEHENY  
ROTHNER, SEGALL & GREENSTONE


By   
ANTHONY R. SEGALL  
Attorneys for Plaintiffs

**JURY TRIAL DEMAND**

Plaintiffs hereby demand a jury trial on all issues so triable.

Dated: July 6, 2005

ANTHONY R. SEGALL  
EMMA LEHENY  
ROTHNER, SEGALL & GREENSTONE

By   
ANTHONY R. SEGALL  
Attorneys for Plaintiffs