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6 Attorneys for Plaintiff LAURA PETERS,
7 on behalf of herself and all others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

BC: 97455

10 LAURA PETERS, on behalf of herself and all
11 others similarly situated,

CASE NO.

12
13 Plaintiff,

CLASS ACTION COMPLAINT

14 vs.

1. Unpaid Overtime
(Labor Code §§ 1194 and 1198, IWC Order
4-2001)

15
16 LANDAMERICA FINANCIAL GROUP,
17 INC., a Virginia Corporation, and DOES 1-
18 100, inclusive,

2. Failure to Timely Pay Wages Due at
Termination (Labor Code § 203)

19 Defendant.

3. Illegal Record Keeping
(Labor Code § 226)

4. Unfair Business Practices
(Bus. & Prof. Code §§ 17200 et seq.)

5. Underpayment of Overtime under Fair
Labor Standards Act, 29 U.S.C. 216(b)

20
21
22 **DEMAND FOR JURY TRIAL**

BY FAX

1 Plaintiff LAURA PETERS, on behalf of herself and all others similarly situated
2 (herein referred to as "Plaintiff"), hereby files this Complaint against Defendant
3 LANDAMERICA FINANCIAL GROUP, INC., a Virginia Corporation, and DOES 1-100
4 (hereinafter collectively referred to as "Defendant"). Plaintiff is informed and believes, and on
5 the basis of that information and belief, alleges as follows:

6 I.

7 INTRODUCTION

8 1. This case arises out of Defendant's failure to pay statutory overtime calculated on
9 class members' "regular rate of pay," including commissions, for all hours worked in excess of
10 eight (8) hours per day, and/or forty (40) hours per week, as applicable, requiring employees to
11 work off-the-clock, failure to pay all wages due to former employees, and failure to provide
12 accurate itemized wage statements, plus interest, attorneys' fees and costs under California Labor
13 Code sections 1194 and 1198, 203, 226(b) and federal law. Plaintiff, on behalf of herself and all
14 other members of the class alleged herein, also brings an action for monetary recovery for
15 Defendant's violations of California Business and Professions Code sections 17200, et seq., as a
16 result of its unlawful, fraudulent and unfair business practices, as well as injunctive relief.

17 2. Defendant operates and, at all times during the relevant time period or liability
18 period, has done business as a provider of title insurance and real estate transaction services in
19 the State of California and throughout the United States. Defendant has, among other things,
20 employed persons as non-exempt inside sales employees with job titles including title officers,
21 title assistants, escrow officers, escrow assistants, title coordinators, assistant title coordinators
22 and/or equivalent positions and/or other similarly designated titles (hereinafter referred to
23 collectively as "Agents") to coordinate title insurance and real estate transaction services in the
24 residential and commercial real estate market.

25 3. Defendant utilizes numerous subsidiary corporations to provide title insurance
26 and other corollary and related real estate transaction services to the residential and commercial
27 real estate market within the State of California and throughout the United States. Defendant
28 has, in some unknown capacity, an ownership and/or agency relationship with LAWYERS

1 TITLE INSURANCE CORPORATION, a Virginia Corporation; LAWYERS TITLE
2 COMPANY, a California Corporation; COMMONWEALTH LAND TITLE COMPANY, a
3 California Corporation; COMMONWEALTH LAND TITLE INSURANCE COMPANY, a
4 Pennsylvania Corporation; TRANSNATION TITLE INSURANCE COMPANY, a Arizona
5 Corporation, and UNITED CAPITAL TITLE INSURANCE COMPANY, a California
6 Corporation, in its endeavor to employ Agents to assist clients in the State of California and
7 throughout the United States. Defendant maintains a uniform policy and procedure to not
8 include commissions earned by Agents in their “regular rate of pay” calculation for purposes of
9 calculating overtime wages. Defendant maintains a uniform policy and procedure to not provide
10 Agents with the ability to record time worked in excess of eight (8) hours per day, and/or forty
11 (40) hours per week in an accurate manner, thereby requiring them to work off-the-clock.

12 II.

13 JURISDICTION AND VENUE

14 4. Plaintiff LAURA PETERS is an individual residing in the County of Los
15 Angeles, California. Plaintiff was employed by Defendant in Los Angeles, California at all times
16 relevant herein. The Plaintiff and each class member was an employee of Defendant
17 LandAmerica Financial Group, Inc., or any of its operating divisions and subsidiaries, including
18 but not limited to, Lawyers Title Insurance Corporation, Lawyers Title Company,
19 Commonwealth Land Title Company, Commonwealth Land Title Insurance Company,
20 Transnation Title Insurance Company, and United Capital Title Insurance Company within the
21 State of California and throughout the United States, and was subject to the unlawful policies
22 during the past four (4) years in California, and during the past three (3) years outside of
23 California.

24 5. Plaintiff brings this action on behalf of herself and similarly situated employees
25 of Defendant pursuant to Business and Professions Code sections 17200, et. seq.

26 6. The California Superior Court has jurisdiction in this matter due to Defendant’s
27 violations of Labor Code sections 203, 226(b), 1194 and 1198, and Business and Professions
28 Code sections 17200, et. seq.

1 **B. Defendant**

2 14. Defendant LandAmerica Financial Group, Inc. is now and/or at all times
3 mentioned in this Complaint was a Virginia corporation qualified to do business and actually
4 doing business in the State of California. LandAmerica Financial Group, Inc., owns and operates
5 an industry, business and establishment in numerous separate geographical locations within the
6 State of California and throughout the United States, including, but not limited to, the County of
7 Los Angeles, for the purpose of providing title insurance and real estate transaction services
8 within the State of California and throughout the United States. On information and belief,
9 LandAmerica Financial Group, Inc.'s principal place of business is in Virginia.

10 15. DOES 1 through 100, inclusive are now, and/or at all times mentioned in
11 this Complaint were, licenced to do business and/or actually doing business in the State of
12 California and/or throughout the United States.

13 16. The true names and capacities, whether individual, corporate, associate,
14 or otherwise, of Defendants sued herein as DOES 1 through 100, inclusive, are currently
15 unknown to Plaintiff, who therefore sues Defendants by such fictitious. Plaintiff is informed and
16 believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is
17 legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek
18 leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
19 designated hereinafter as DOES when such identities become known.

20 17. Plaintiff is informed and believes, and based thereon alleges, that
21 Defendant acted in all respects pertinent to this action as the agent of the other DOE Defendants,
22 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
23 each Defendant are legally attributable to the other Defendants as each Defendant has ratified,
24 approved, and authorized the acts of each of the remaining Defendants with full knowledge of
25 said acts.

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1 IV.

2 CLASS ACTION ALLEGATIONS

3 18. Plaintiff brings this action on behalf of herself and all others similarly
4 situated as a class action pursuant to Code of Civil Procedure and under the FLSA. The
5 proposed class and subclasses which the Plaintiff seeks to represent are composed of current and
6 former non-exempt employees of Defendant LandAmerica Financial Group, Inc. or any of its
7 operating divisions and subsidiaries, including but not limited to, Lawyers Title Insurance
8 Corporation, Lawyers Title Company, Commonwealth Land Title Company, Commonwealth
9 Land Title Insurance Company, Transnation Title Insurance Company, and United Capital Title
10 Insurance Company with job titles including title officers, title assistants, escrow officers, escrow
11 assistants, title coordinators, assistant title coordinators and/or equivalent positions and/or other
12 similarly designated titles, within the State of California and throughout the United States
13 (hereinafter “class members”). Plaintiff seeks to represent a Class composed of and defined as
14 follows:

15 **CALIFORNIA CLASS:** All non-exempt LandAmerica Financial Group, Inc.,
16 Lawyers Title Insurance Corporation, Lawyers Title Company, Commonwealth Land Title
17 Company, Commonwealth Land Title Insurance Company, Transnation Title Insurance
18 Company, and United Capital Title Insurance Company California employees paid by
19 commission on or after the date that is four (4) years before the filing of the Complaint in this
20 action up to and including the time of trial for this matter (hereinafter the “California Class
21 Period”).

22 19. The proposed California Subclasses which the Plaintiff seeks to certify
23 are currently composed of and defined as follows:

24 A. **California Subclass “A”:** All class members who did not receive
25 overtime wages based on commission earnings at any time within four (4)
26 years prior to filing the initial Complaint in this action through the time of
27 trial for this matter.

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1 B. **California Subclass "B"**: All class members who did not receive
2 overtime wages for hours worked while not clocked-in at any time within
3 four (4) years prior to filing the initial Complaint in this action through the
4 time of trial for this matter.

5 20. Throughout discovery in this litigation, Plaintiff may find it appropriate
6 and/or necessary to amend the definition of the Class and/or Subclasses. In any event, Plaintiff
7 will formally define and designate a class definition at such time when Plaintiff seeks to certify
8 the Class and Subclasses alleged herein.

9 21. **Ascertainable Class**: The proposed class and each subclass are
10 ascertainable in that their members can be identified and located using information contained in
11 Defendant's payroll and personnel records.

12 22. **Numerosity**: The potential quantity of members of the Class and
13 Subclasses as defined is so numerous that joinder of all members would be unfeasible and
14 impractical. The disposition of their claims through this class action will benefit both the
15 parties and this Court. The quantity of members of the Class and Subclasses is unknown to
16 Plaintiff at this time, however, it is estimated that each of the Class and Subclasses numbers is
17 well in excess of 100 individuals. The quantity and identity of such membership is readily
18 ascertainable via inspection of Defendant's records.

19 23. **Typicality**: The claims of Plaintiff Laura Peters are typical of the claims
20 of all members of the Class and Subclasses mentioned herein because all members of the Class
21 and Subclasses sustained injuries and damages arising out of Defendant's common course of
22 conduct in violation of law and the injuries and damages of all members of the Class and
23 Subclasses were caused by DEFENDANT'S wrongful conduct in violation of law, as alleged
24 herein.

25 24. **Adequacy**: Plaintiff Laura Peters is an adequate representative of the
26 Class and Subclasses herein, will fairly protect the interests of the members of the Class and
27 Subclasses, has no interests antagonistic to the members of the Class and Subclasses and will
28 vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating

1 matters of this type. Class Counsel are competent and experienced in litigating large
2 employment law class actions.

3 25. **Superiority:** The nature of this action and the nature of laws available to
4 Plaintiff make use of the class action format a particularly efficient and appropriate procedure to
5 afford relief to Plaintiff for the wrongs alleged herein, as follows:

- 6 a) This case involves a large corporate Defendant and a large number of
7 individual class members with many relatively small claims and common
8 issues of law and fact;
- 9 b) If each individual member of each of the Class and Subclasses was
10 required to file an individual lawsuit, the large corporate Defendant
11 would necessarily gain an unconscionable advantage because Defendant
12 would be able to exploit and overwhelm the limited resources of each
13 individual member of the Class and Subclasses with Defendant's vastly
14 superior financial and legal resources;
- 15 c) Requiring each individual member of each Class and Subclasses to
16 pursue an individual remedy would also discourage the assertion of
17 lawful claims by the members of the Class and Subclasses who would be
18 disinclined to pursue an action against Defendant because of an
19 appreciable and justifiable fear of retaliation and permanent damage to
20 their lives, careers and well-being;
- 21 d) Proof of a common business practice or factual pattern, of which the
22 members of the Class and Subclasses experienced, is representative of the
23 Class and Subclasses herein and will establish the right of each of the
24 members of the Class and Subclasses to recover on the causes of action
25 alleged herein;
- 26 e) The prosecution of separate actions by the individual members of the
27 Class and Subclasses, even if possible, would create a substantial risk of
28 inconsistent or varying verdicts or adjudications with respect to the

1 individual members of the Class and Subclasses against Defendant; and
2 which would establish potentially incompatible standards of conduct for
3 Defendant; and/or legal determinations with respect to individual
4 members of the Class and Subclasses which would, as a practical matter,
5 be dispositive of the interest of the other members of the Class and
6 Subclasses who are not parties to the adjudications or which would
7 substantially impair or impede the ability of the members of the Class and
8 Subclasses to protect their interests; and

9 f) The claims of the individual members of the Class and Subclasses are not
10 sufficiently large to warrant vigorous individual prosecution considering
11 all of the concomitant costs and expenses attending thereto.

12 g) Furthermore, as the damages suffered by each individual member of the
13 class may be relatively small, the expenses and burden of individual
14 litigation would make it difficult or impossible for individual members of
15 the class to redress the wrongs done to them, while an important public
16 interest will be served by addressing the matter as a class action.

17 h) The cost to the court system of adjudication of such individualized
18 litigation would be substantial. Individualized litigation would also
19 present the potential for inconsistent or contradictory judgment.

20 i) Finally, the alternative of filing a claim with the California Labor
21 Commission is not superior, given the lack of discovery in such
22 proceedings, the availability of fewer remedies, and the fact that the
23 losing party has the right to a trial de novo in the Superior Court.

24 **26. Existence and Predominance of Common Questions of Fact and Law:**

25 There are common questions of law and fact as to the members of the Class and
26 Subclasses which predominate over questions affecting only individual members of the Class and
27 Subclasses including, without limitation:
28

- 1 a) Whether Defendant paid the proper overtime rate based both on class
2 members' hourly rate plus commissions for all hours worked in excess of
3 eight (8) hours a day, and/or forty (40) hours in a workweek;
- 4 b) Whether Defendant failed to pay class members overtime wages for hours
5 worked while not clocked-in;
- 6 c) Whether Defendant failed to keep adequate records for the class members
7 pursuant to California Labor Code §226(a) (and the consequence for such
8 statutory violations if Defendant did not);
- 9 d) Whether Defendant failed pay class members all wages due at termination
10 pursuant to California Labor Code §203 (and the consequence for such
11 statutory violations if Defendant did not);
- 12 e) Whether Defendant's conduct constitutes unfair competition within the
13 meaning of Business and Professions Code sections 17200, et seq.;
- 14 f) Whether members of the Class and Subclasses are entitled to compensatory
15 damages, and if so, the means of measuring such damages;
- 16 g) Whether the members of the Class and Subclasses are entitled to injunctive
17 relief;
- 18 h) Whether the members of the Class and Subclasses are entitled to
19 restitution;
- 20 i) Whether Defendant is liable for pre-judgment interest; and
- 21 j) Whether Defendant is liable for attorneys' fees and costs.

22 **FLSA COLLECTIVE ACTION ALLEGATIONS**

23 27. Plaintiff brings the Fifth Cause of Action, for violation of the Fair Labor
24 Standards Act ("FLSA"), as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. 216(b),
25 on behalf of all class members who were, are, or will be employed by Defendant LandAmerica
26 Financial Group, Inc., or any of its operating divisions and subsidiaries, including but not limited
27 to, Lawyers Title Insurance Corporation, Lawyers Title Company, Commonwealth Land Title
28 Company, Commonwealth Land Title Insurance Company, Transnation Title Insurance Company,

1 and United Capital Title Insurance Company on or after the date that is three (3) years before the
2 filing of the Complaint in this action up to and including the time of trial for this matter
3 (hereinafter the “Nationwide Class Period”) who are:

4 **NATIONWIDE FLSA CLASS**: All non-exempt LandAmerica Financial Group,
5 Inc., Lawyers Title Insurance Corporation, Lawyers Title Company, Commonwealth Land Title
6 Company, Commonwealth Land Title Insurance Company, Transnation Title Insurance Company,
7 and United Capital Title Insurance Company employees outside California who did not receive
8 overtime wages based on commission earnings at any time during the class period within the last
9 three (3) years from the filing of the Complaint in this action up to and including the time of trial
10 for this matter.

11 28. Nationwide non-exempt class members were all subjected to the same
12 unlawful conduct in that once they worked overtime hours, that is, any hours in excess of forty
13 (40) hours per workweek, they were not paid the lawful regular rate of pay which is to include
14 earned commissions in regular rate of pay calculations.

15 29. At all relevant times, Plaintiff and the other Class Members who are and
16 have been similarly situated, have had substantially similar job requirements and pay provisions,
17 and have been subject to Defendant’s common practices, policies, programs, procedures,
18 protocols and plans of wilfully failing and refusing to pay them at the legally required rate for
19 work in excess of forty (40) hours per workweek and wilfully failing to keep records required by
20 the FLSA. The claims of Plaintiff stated herein are similar to those of the other Class Members.

21 30. The Fifth Cause of Action is properly brought and maintained as an Opt-
22 In collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. section 216(b) (*See* Exhibit
23 1, “Consent to make a claim in lawsuit under the FLSA”). The covered employees are readily
24 ascertainable. For purposes of notice and other purposes related to this action, their names and
25 addresses are readily available from Defendant. Notice will be provided to the Nationwide FLSA
26 Collective Plaintiffs via first class mail to the last known address by the employer.

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1 V.

2 CAUSES OF ACTION

3 **FIRST CAUSE OF ACTION**

4 **(Failure to Pay Overtime Wages in Violation of California Labor Code §§ 1194 and 1198,**
5 **IWC Order 4-2001)**

6 **(By All California Class Members Against Defendant)**

7 31. Plaintiff incorporates all preceding paragraphs as though fully set forth
8 herein.

9 32. Wage Order 4 of the IWC, applicable to Defendant, provides that Plaintiff
10 and the other class members shall be paid one and one-half times their regular rate of pay for all hours
11 in excess of eight (8) hours in a day up to twelve (12) hours and two times their regular rate of pay
12 for all hours in excess of twelve (12) hours. It also provides that said employees should receive one
13 and one-half times their regular rate of pay for all hours in excess of forty (40) hours in a week.

14 33. Insofar as work in excess of eight (8) hours in a day, and in excess of forty
15 (40) hours per week, was calculated without properly calculating the regular rate of pay, including
16 all earned commissions, Defendant is liable to the Plaintiff and the class members for unpaid overtime
17 wages, in an amount subject to proof.

18 34. Insofar as work in excess of eight (8) hours in a day, and in excess of forty
19 (40) hours per week, was completed as "off-the-clock" work, Defendant willfully violated the
20 provisions of Labor Code section 1194 and 1198 and IWC Wage Order 4-2001.

21 35. In addition, the Plaintiff class is entitled to interest on the unpaid overtime,
22 attorneys' fees, costs, and as to former employees, waiting time penalties pursuant to Labor Code
23 §203.

24 **SECOND CAUSE OF ACTION**

25 **(Failure to Timely Pay Wages Due at Termination in Violation of California Labor Code**
26 **§203)**

27 **(By All California Class Members Against Defendant)**

28 36. Plaintiff incorporates all preceding paragraphs as though fully set forth
herein.

37. Defendant had a consistent and uniform policy, practice and procedure of

1 willfully failing to lawfully pay the earned and unpaid overtime wages of Defendant's former
2 employees.

3 38. Plaintiff and certain members of the Class are no longer employed by
4 Defendant. They were either discharged from or quit Defendant's employment.

5 39. Defendant willfully failed to pay the Plaintiff and certain members of the
6 class a sum certain at the time of their termination or within seventy-two (72) hours of their
7 resignation, and failed to pay those sums for thirty (30) days thereafter.

8 40. Defendant's willful failure to pay wages to the Plaintiff and certain class
9 members violates Labor Code section 203 because Defendant knew wages were due to the
10 Plaintiff and certain class members, but Defendant failed to pay them.

11 41. Thus, Plaintiff and certain class members are entitled to penalties
12 pursuant to Labor Code section 203, in the amount of each class member's daily wage multiplied
13 by thirty (30) days.

14 42. Labor Code sections 201 and 202 requires Defendant to pay its employees
15 all wages due within 72 hours of termination of employment. Section 203 of the Labor Code
16 provides that if an employer willfully fails to timely pay such wages the employer must, as a
17 penalty, continue to pay the subject employee's wages until the back wages are paid in full or an
18 action is commenced. The penalty cannot exceed 30 days of wages.

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20 **THIRD CAUSE OF ACTION**
(Illegal Record Keeping in Violation of California Labor Code §226)
(By All California Class Members Against Defendant)

21
22 43. Plaintiff incorporates all preceding paragraphs as though fully set forth
23 herein.

24 44. Labor Code section 226 requires an employer to furnish its employees
25 with an accurate itemized statement in writing showing, among other things, (1) gross wages
26 earned, (2) total hours worked by each respective individual, (3) all deductions, (4) net wages
27 earned and/or (5) all applicable hourly rates in effect during each respective pay period and the
28 corresponding number of hours worked by each respective individual.

1 45. Therefore, pursuant to Labor Code section 226, California employers are
2 required to maintain accurate records pertaining to the amount of wages earned by the Plaintiff
3 and class members.

4 46. The Plaintiff and class members failed to receive from Defendant
5 accurate itemized wage statements which accurately reflected their regular rate of pay, number of
6 hours worked, gross wages, and net wages earned.

7 47. As a pattern and practice, in violation of Labor Code section 226(a),
8 Defendant did not provide Plaintiff or class members with an accurate itemized wage statement in
9 writing showing, (1) regular rate of pay, (2) number of hours worked, (3) gross wages earned,
10 and/or (4) net wages earned by the Plaintiff and class members.

11 48. Pursuant to Labor Code section 226(e), the Plaintiff and class members
12 are entitled to penalties as follows:

- 13 A) Fifty dollars (\$50.00) per employee for the initial pay period in
14 which a violation occurs; and
- 15 B) One hundred dollars (\$100.00) per employee for each violation in a
16 subsequent pay period, not to exceed \$4,000 per claimant; and
- 17 C) Pursuant to Labor Code section 226(g), the Plaintiff and class
18 members are entitled to injunctive relief to ensure Defendant's
19 compliance with Labor Code section 226.

20 49. The Plaintiff and class members are entitled to an award of costs and
21 reasonable attorneys' fees.

22 50. Defendant has knowingly and intentionally failed to comply with Labor
23 Code section 226(a) on each and every wage statement provided to Plaintiff and class members.

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1 **FOURTH CAUSE OF ACTION**

2 **(Unfair Business Practices in Violation of California Bus. & Prof. Code §§ 17200 et seq.)**
3 **(By All California Class Members Against Defendant)**

4 51. Plaintiff incorporates all preceding paragraphs as though fully set forth
5 herein.

6 52. Defendant is unjustly enriched through its failure to provide overtime
7 wages under the IWC Wage Orders and under California Labor Code, and failure to keep proper
8 records, as alleged herein, constitute unlawful activity prohibited by Business and Professions
9 Code section 17200.

10 53. The actions of Defendant in failing to pay Plaintiff and class members in
11 a lawful manner, as will be further alleged herein, constitute false, unfair, fraudulent and
12 deceptive business practices, within the meaning of Business and Professions Code sections
13 17200, et seq.

14 54. Plaintiff is entitled to an injunction and other equitable relief against such
15 unlawful practices in order to prevent future damage, for which there is no adequate remedy at
16 law, and to avoid a multiplicity of lawsuits.

17 55. As a result of its unlawful acts, Defendant has reaped and continues to
18 reap unfair benefits at the expense of Plaintiff, and the Class and Subclasses she seeks to
19 represent. Defendant should be enjoined from this activity and made to disgorge these ill-gotten
20 gains and restore to Plaintiff and the members of the Class and Subclasses the wrongfully
21 withheld wages, pursuant to Business and Professions Code section 17200, et seq. Plaintiff is
22 informed and believes, and thereon alleges, that Defendant is unjustly enriched through its failure
23 to properly pay overtime wages.

24 56. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and
25 class members are prejudiced by Defendant's unfair trade practices.

26 57. As a direct and proximate result of the unfair business practices of
27 Defendant, Plaintiff individually and on behalf of all employees similarly situated, is entitled to
28 equitable and injunctive relief, including full restitution, disgorgement, and/or specific

1 performance of payment of all wages and pay that have been unlawfully withheld from Plaintiff
2 and members of the class and Subclasses as a result of the business acts and practices described
3 herein and enjoining Defendant to cease and desist from engaging in the practices described
4 herein.

5 58. The illegal conduct alleged herein is continuing, and there is no indication
6 that Defendant will not continue such activity into the future. Plaintiff alleges that if Defendant is
7 not enjoined from the conduct set forth in this Complaint, it will continue to fail to properly pay
8 overtime wages, and will avoid paying appropriate taxes, insurance, and unemployment
9 withholdings.

10 59. Plaintiff further requests that the court issue a preliminary and permanent
11 injunction prohibiting Defendant to continue engaging in the practices described hereinabove.

12
13 **FIFTH CAUSE OF ACTION**

14 **(Nationwide FLSA Non-Exempt Employees Against Defendant for FLSA Claims, 29 U.S.C.
15 section 201, et. seq. for Overtime Wages)**

16 60. Plaintiff incorporates all preceding paragraphs as though fully set forth
17 herein.

18 61. At all relevant times, Defendant has been, and continues to be, an
19 “employer” engaging in interstate “commerce” within the meaning of the FLSA, 29 U.S.C.
20 section 203. At all relevant times, Defendant has employed, and continues to employ the Covered
21 Employees as “employees[s]” including Plaintiff and each of the Collective Nationwide FLSA
22 Collective Plaintiffs within the meaning of the FLSA. At all relevant times, Defendant has had
23 gross operating revenues in excess of \$500,000.

24 62. Throughout the FLSA Class Period, Plaintiff and the other Covered
25 Employees worked hours in excess of forty (40) hours per workweek, and continue to do so.
26 Plaintiff consents to suit in this action pursuant to Section 16(b) of the FLSA, 29 U.S.C. section
27 216(b).

28 63. At all relevant times, Defendant has had, and continues to have common

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3. For economic and/or special damages in an amount according to proof with interest thereon;
4. For penalties for employees who were owed wages at termination under Labor Code section 203;
5. That Defendant be found to have engaged in unfair competition in violation of section 17200 of the California Business and Professions Code;
6. That Defendant be ordered and enjoined to make restitution to the Class due to its unfair competition, including disgorgement of its wrongfully-obtained revenues, earnings, profits, compensation, and benefits, pursuant to California Business and Professions Code sections 17203 and 17204;
7. That Defendant be enjoined to cease and desist from unfair competition in violation of section 17200 of the California Business and Professions Code;
8. Designation of this action as a collective action on behalf of the Nationwide FLSA Collective Plaintiffs (asserting FLSA Claims) and prompt issuance of notice pursuant to 29 U.S.C. section 216(b) to all similarly situated members of the FLSA Opt-In Class, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C. section 216(b);
9. Designation of Plaintiff as a Representative of the Nationwide FLSA Collective Plaintiffs;
10. A declaratory judgement that the practices complained of herein are unlawful under the FLSA;
11. An injunction against Defendant and its officers, agents, successors, employees, representative, and any and all person acting in concert with it, as provided by law, from engaging in each of the unlawful practices, policies, and patterns set forth herein;

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- 12. For attorneys' fees, including fees pursuant to 29 U.S.C. section 216, interests and costs of suit;
- 13. Pre-Judgment and Post-Judgement interest, as provided by Law; and
- 14. For such other and further relief as the Court deems just and proper.

DATED: September 2, 2008

COHELAN & KHOURY

By: 
Alexander I. Dychter
Counsel for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATED: September 2, 2008

COHELAN & KHOURY

By: 
Alexander I. Dychter
Counsel for Plaintiff

EXHIBIT 1

**CONSENT TO MAKE A CLAIM IN LAWSUIT UNDER
FEDERAL FAIR LABOR STANDARDS ACT (FLSA)**

I am a former or current employee of LANDAMERICA FINANCIAL GROUP, INC. (Referred to below as LANDAMERICA).

I consent to my making a claim in a Fair Labor Standards Act (FLSA) lawsuit, seeking payment of unpaid wages, including overtime wages, and related relief against LANDAMERICA. The lawsuit has been filed on behalf of a large number of former and current employees of LANDAMERICA, including me.

I understand that this form will be filed in the lawsuit and thus LANDAMERICA will be aware that I have filed this form, and, in the terminology of the FLSA law, I will be considered a party plaintiff.

I have been informed that it is against the law for LANDAMERICA to retaliate against me for signing this agreement or participating in the lawsuit.

SIGNATURE:

x L. Peters

PRINT NAME:

x LAURA PETERS