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Superior Court of California
County of Los Angeles

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14 **SUPERIOR COURT OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES – CENTRAL COMPLEX WEST**

16 DAVID C. SALDANA, LADAIJSJA)
17 BREWSTER, and MONICA CARLIN on)
18 behalf of themselves and all others similarly)
19 situated,)

20 Plaintiffs,)

21 v.)

22 AMAZON.COM, LLC, a Delaware Limited)
23 Liability Corporation; SMX, LLC, an Illinois)
24 Limited Liability Company; STAFF)
25 MANAGEMENT, LLC, an Illinois Limited)
26 Liability Company and, DOES 1 through 10,)
27 inclusive,)

28 Defendants.)

CASE NO. BC 531096

FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, AND
RESTITUTION

- 1) Failure to pay Hourly Wages (Lab. Code, §200-204, 1194; IWC Order 2-2001);
- 2) Failure to Pay Overtime Wages (Lab. Code, §200-204, 1194; IWC Order 2-2001);
- 3) Failure to Provide Meal Periods or Compensation in Lieu Thereof (Lab. Code § 226.7; IWC Order 5; Cal. Code Regs., Title 8 § 11050);
- 4) Failure to Provide Rest Periods or Compensation in Lieu Thereof (Lab. Code §§ 226.7, 512; IWC Order 5; Cal. Code Regs., Title 8 § 11050);
- 5) Failure to Timely Pay Wages of Terminated or Resigned Employees (Lab. Code, §§ 201-203)
- 6) Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions (Lab. Code, § 226 (a),(b))
- 7) Violations of the Unfair Competition Law (Bus. & Prof. Code, §§ 17200-17208)
- 8) Violations of the Private Attorneys General Act of 2004 (“PAGA”) (Lab. Code §2698, *et seq.*)

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11 Attorneys for Plaintiffs DAVID C. SALDANA, LADAISSA BREWSTER,
and MONICA CARLIN on behalf of themselves and all others similarly situated.
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1 Plaintiffs DAVID C. SALDANA, LADAIJA BREWSTER, and MONICA CARLIN
2 (“Plaintiffs”), by and through their attorneys of record, bring this action on behalf of themselves and
3 all other persons currently or formerly employed-jointly by AMAZON.COM, LLC, SMX, LLC,
4 STAFF MANAGEMENT, LLC, and, DOES 1 through 10 and DOES 1 through 10, inclusive
5 (hereinafter collectively referred to as “Defendants” or “Joint Employers”). Plaintiffs hereby allege,
6 on information and belief, except for information based on personal knowledge, which allegations are
7 likely to have evidentiary support after further investigation and discovery, as follows:

8 **I.**

9 **INTRODUCTION**

10 1. This case arises from Defendants’ collective failure to pay employees all compensable
11 wages for time worked and/or subject to employer control and the failure to pay the requisite amount
12 of straight-time, alternatively minimum wage, overtime and double-time wages for all time worked.
13 The case also arises from Defendants’ engagement of warehouse employees in a Joint Employment
14 relationship, and a collective failure of the Joint Employers to provide its shared employees with
15 uninterrupted and duty free meal and rest periods in violation of California law, and for violations of
16 the Private Attorneys General Act (PAGA). The violations alleged herein stem from one
17 overarching, systemic and uniform company practice that requires employees to be subject to
18 individual security searches on Defendants’ premises after the employees clock out for meal periods
19 and at the end of the day when employees clock-out for the end of their shifts. The individualized
20 security search is done on Defendants’ premises, and results in up to 20-30 minutes, or more, of
21 additional compensable work each day because the employees remain under the direct control of the
22 Defendants as Joint Employer of the Plaintiffs and those similarly situated. The searches are easily
23 feasible to be performed BEFORE the employees clock out for lunch or BEFORE they clock out for
24 the end of their shifts, but in order to not pay wages, the individual on-premises security searches,
25 done to protect the Defendants and their property, are systemically done AFTER the employee clocks
26 out and interferes with the employees’ ability to take full uninterrupted 30 minute lunches, full
27 uninterrupted rest breaks and delays the employees ability to depart from the facility due to lines and
28 volume of employees who are ending shifts. By systematically placing the security check after the

1 clock out area, Defendants are able to cut short employees of all compensable time they are subject to
2 employer control. The result is a daily underpayment for all time worked, daily interruptions in
3 employee meal and rest periods, a failure to provide correctly itemized and accurate wage statements
4 showing all hours actually caused or suffered to work, and a failure to pay all wages owed at
5 separation to separated employees. Indeed, some employees are hired and fired on such short notice,
6 the company regularly and systematically fails to pay all wages owed in the manner and in the time-
7 frame required by California Labor Code Section 203.

8 2. This case is brought on behalf of certain California employees currently employed by, or
9 formerly employed by AMAZON.COM, LLC, a Delaware Limited Liability Corporation; SMX,
10 LLC an Illinois Limited Liability Company; STAFF MANAGEMENT, LLC, an Illinois Limited
11 Liability Company, and DOES 1 through 10, inclusive, all acting as Joint Employers of the
12 warehouse fulfillment employees in California. The proposed Plaintiff Class consists of all non-
13 exempt hourly employees that are either "Pickers" or "Packers" at AMAZON's Fulfillment Center
14 Warehouses in California and others similarly situated, employed in California by Defendants, who,
15 during the period four years prior to filing the complaint through the time of trial, did not receive all
16 straight time or alternatively minimum wages, overtime and double-time owed. Due to the systematic
17 security screening required jointly by all employer Defendants, employees still subject to employer
18 control were no paid properly calculated straight-time, overtime and double-time wages, were not
19 provided with compliant meal or rest periods due to the burdensome individual on-premises security
20 searches, were not provided with accurate wage statements, and were not paid all wages due at
21 termination. Plaintiffs also allege that based on violations of the wage and hour statutes identified
22 herein, that a claim is also brought pursuant to California Business & Professions Code Section 17200
23 et seq., challenging the Joint Employers' actions regarding security practices. The practice, based on
24 information and belief is ongoing and continuous, and therefore, continues to result in lost wages and
25 damages to employees, at the appropriate time, pursuant to B&P Code Section 17204, Plaintiffs may
26 seek declaratory and/or injunctive relief as primary means to prevent employee loss of wages through
27 Defendants' collective conduct.

28 3. Plaintiffs have sent notice to the California Labor and Workforce Development Agency

1 (LWDA) and to the agent for service of process of AMAZON.COM, LLC, a Delaware Limited
2 Liability Corporation; SMX, LLC, an Illinois Limited Liability Company; STAFF
3 MANAGEMENT, LLC, ad Illinois Limited Liability Company, and DOES 1 through 10, inclusive,
4 to the extent such addresses are available by the California Secretary of State. The notices have been
5 sent pursuant to the Private Attorney General Act of 2004 ("PAGA"). A true and correct copy of that
6 notice (courtesy copy of complaint omitted) is attached hereto as Exhibit "A" and is incorporated
7 herein by this reference. The PAGA provides: "Notwithstanding any other provisions of law, a
8 Plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under
9 this part within 60 days of the time periods specified in this part." By serving of notice before one-
10 year from any date of separation from the Joint Employers, all Plaintiffs' claims under PAGA are
11 timely and within the applicable statute of limitations period. No notice of cure by Defendants was
12 provided and no notice of investigation was received from the LWDA in the statutorily proscribed
13 33-day period since the mailing of the notice of the action. Accordingly, Plaintiffs files this action as
14 a "Representative Action" as provided by California Code of Civil Procedure as specifically
15 permitted and authorized by Labor Code §2699.3(a)(2)(C).

16 **II.**

17 **JURISDICTION AND VENUE**

18 4. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil
19 Procedure, section 395. AMAZON.COM, LLC, a Delaware Limited Liability Corporation; SMX,
20 LLC, an Illinois Limited Liability Company; STAFF MANAGEMENT, LLC, an Illinois Limited
21 Liability Company, and DOES 1 through 10, inclusive, all conduct business and commits Labor Code
22 violations in Los Angeles County, as well as Concord, California and each Defendant is within the
23 jurisdiction of this Court for service of process purposes. The unlawful acts alleged have a direct
24 effect on Plaintiffs and those similarly situated within the State of California and Los Angeles County
25 and to employees in warehouse fulfillment centers located in San Bernardino, Patterson City,
26 Stockton, and Tracy California, as perhaps other locations within the state of California. AMAZON,
27 SMX, STAFF MANAGEMENT, and DOES 1 through 10, inclusive each jointly employs numerous
28 Class Members in Los Angeles County and surrounding counties. There is no federal question at

1 issue, as the issues herein are based solely on California statutes and law, including the Labor Code,
2 IWC Wage Orders, Code of Civil Procedure, Civil Code, and Business and Professions Code.

3 5. Further, Business and Professions Code, section 17203 provides that any person who
4 engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and
5 Professions Code, section 17204 provides that any person acting on his or her own behalf may bring
6 an action in a court of competent jurisdiction. Thus, the above entitled court maintains appropriate
7 jurisdiction to hear this matter.

8 6. Based on information and belief, Plaintiffs allege that this entire action arises solely
9 under state law of the State of California and applicable regulations of the health, safety and wages of
10 the employees residing in the State of California. Plaintiffs allege, on information and belief, that no
11 federal question is raised and that the Class Action Fairness Act (CAFA) 28 U.S.C. Section 1332(d)
12 does not apply, or in the alternative, that exceptions for local case or controversy under CAFA do
13 apply and prohibits removal of the action the federal court.

14 III.

15 THE PARTIES

16 A. The Plaintiffs

17 7. Plaintiff DAVID C. SALDANA is a resident of the State of California. At all relevant
18 times herein, Plaintiff SALDANA was jointly employed by AMAZON.COM, SMX, STAFF
19 MANAGEMENT, and DOES 1 through 10, inclusive as a shared employee subject to common and
20 joint control. He was called a “warehouse associate” and during the course of his employment was
21 regularly subjected to the Joint Employers’ mandatory security searches, not permitted to leave the
22 Joint Employers’ facilities for breaks and was not paid premium wages for non-compliant breaks, was
23 not paid for all work time wherein he was subject to the Joint Employer’s control by security search.
24 The time involved in not *de minimis*, but required airport style inspections of person and belongings,
25 and Plaintiff estimates that meals and breaks were never provided in the amount of time required by
26 law and regulations. He estimates that lunches were commonly cut short by 10 minutes or more, and
27 that post-clock out time for leaving at the end of shifts could run anywhere from 10-20 minutes and
28 sometimes longer if other employees presented issues (metal, shoes off, etc.) Because SALDANA

1 clocked-out for lunches and at the end of shift before the mandatory security search, he was still
2 “caused and suffered to work” under the direct control of the Joint Employers, but was not paid for
3 that time at the requisite rate of pay, nor was he provided premium pay for at his regular rate of pay
4 for shorted meal periods and rest periods as required by Labor Code Section 226.7 and Industrial
5 Welfare Commission (IWC) Wage Order 4-2004, Sections 11-12. SALDANA remained an hourly
6 nonexempt employee of Defendants until January 8, 2013 and was not timely paid all wages due at
7 the time of his separation and his wage statements failed to itemize the additional compensable work
8 time related to the Joint Employers’ security requirements and procedures that shorted his meal times,
9 rest periods, and end of shift searches. SALDANA’s losses and wages, premiums, overtime pay
10 (when the delays placed his hours into overtime or he was already working an overtime shift
11 exceeding 8 hours in length), interest and penalties will be calculated in manner according to proof.
12 SALDANA’s hourly rate of pay was approximately \$12-\$13 per hour.

13 8. Plaintiff LADAIJA BREWSTER is a resident of the State of California. At all relevant
14 times herein, Plaintiff BREWSTER was jointly employed by AMAZON.COM; SMX, STAFF
15 MANAGEMENT, and DOES 1 through 10, inclusive as a shared employee subject to common and
16 joint control throughout her employment. She was called a “outbound Packer” and during the course
17 of her employment was regularly subjected to the Joint Employers’ mandatory security searches, not
18 permitted to leave the Joint Employers’ facilities for breaks and was not paid premium wages for
19 non-compliant breaks, was not paid for all work time wherein she was subject to the Joint Employer’s
20 control by security search. The time involved in not *de minimis*, but required airport style inspections
21 of person and belongings, and Plaintiff estimates that meals and breaks were never provided in the
22 amount of time required by law and regulations. She estimates that lunches were commonly cut short
23 by 10 minutes or more, and that post-clock out time for leaving at the end of shifts could run
24 anywhere from 10-20 minutes and sometimes longer if other employees presented issues (metal,
25 shoes off, etc.) Because BREWSTER clocked-out for lunches and at the end of shift before the
26 mandatory security search, she was still “caused and suffered to work” under the direct control of the
27 Joint Employers, but was not paid for that time at the requisite rate of pay, nor was she provided
28 premium pay for at her regular rate of pay for shorted meal periods and rest periods as required by

1 Labor Code Section 226.7 and Industrial Welfare Commission (IWC) Wage Order 4-2004, Sections
2 11-12. BREWSTER remained an hourly nonexempt employee of Defendants until December 2,
3 2013, and was not timely paid all wages due at the time of her separation and her wage statements
4 failed to itemize the additional compensable work time related to the Joint Employers' security
5 requirements and procedures that shorted her meal times, rest periods, and end of shift searches.
6 BREWSTER's losses and wages, premiums, overtime pay (when the delays placed his hours into
7 overtime or he was already working an overtime shift exceeding 8 hours in length), interest and
8 penalties will be calculated in manner according to proof. BREWSTER's hourly rate of pay was
9 approximately \$10-\$12 per hour. As of at least December 6, 2013, BREWSTER had not received her
10 final pay from Defendants.

11 9. Plaintiff MONCIA CARLIN is a resident of the State of California. At all relevant
12 times herein, Plaintiff CARLIN was jointly employed by AMAZON.COM, SMX, STAFF
13 MANAGEMENT, and DOES 1 through 10, inclusive as a shared employee subject to common and
14 joint control throughout her employment. She was called a "inbound Picker" and during the course
15 of her employment was regularly subjected to the Joint Employers' mandatory security searches, not
16 permitted to leave the Joint Employers' facilities for breaks and was not paid premium wages for
17 non-compliant breaks, was not paid for all work time wherein she was subject to the Joint Employer's
18 control by security search. The time involved in not *de minimis*, but required airport style inspections
19 of person and belongings, and Plaintiff estimates that meals and breaks were never provided in the
20 amount of time required by law and regulations. She estimates that lunches were commonly cut short
21 by 10 minutes or more, and that post-clock out time for leaving at the end of shifts could run
22 anywhere from 10-20 minutes and sometimes longer if other employees presented issues (metal,
23 shoes off, etc.) Because CARLIN clocked-out for lunches and at the end of shift before the
24 mandatory security search, she was still "caused and suffered to work" under the direct control of the
25 Joint Employers, but was not paid for that time at the requisite rate of pay, nor was she provided
26 premium pay for at her regular rate of pay for shorted meal periods and rest periods as required by
27 Labor Code Section 226.7 and Industrial Welfare Commission (IWC) Wage Order 4-2004, Sections
28 11-12. CARLIN remained an hourly nonexempt employee of Defendants until November 23, 2013,

1 and was not timely paid all wages due at the time of her separation and her wage statements failed to
2 itemize the additional compensable work time related to the Joint Employers' security requirements
3 and procedures that shorted her meal times, rest periods, and end of shift searches. BREWSTER's
4 losses and wages, premiums, overtime pay (when the delays placed his hours into overtime or she
5 was already working an overtime shift exceeding 8 hours in length), interest and penalties will be
6 calculated in manner according to proof. CARLIN's hourly rate of pay was approximately \$10-\$12
7 per hour.

8 10. All Plaintiffs were systematically required to go through on-premises individual search
9 procedures after clocking out for meals, for attempting off premises rest periods, and at the end of the
10 day or shift. Each day, this resulted in interrupted and shortened meal periods, interrupted or
11 shortened rest periods (or no rest period due to the hassle) and extended time at work under Joint
12 Employers' collective and shared control to get through the often 20-25 minute line to exit the
13 premises, all after being clocked out and unpaid. Plaintiffs did not receive premium pay at their
14 regular hourly rate (approximately \$12.50) for any non-compliant meal or rest period, nor did
15 Plaintiffs receive their proper amount of pay for the extra 15-25 minutes after they clocked out in
16 order to be subject to individualized on-premises search before leaving for their transportation. All
17 observed all similar employees were subject to the identical policy and refusal to submit to individual
18 on premises search constituted grounds for termination. Further, Plaintiffs managers provided no
19 reason why the security could not be conducted before clocking out for lunches or clocking out for
20 end of shifts. Had such search requirement been conducted and then employees allowed to clock-out
21 for breaks and end of shifts, Plaintiffs would have been compensated for required work duties and
22 employer controls without having meal and rest breaks cut short and waiting another 15-25 minutes
23 to leave the work premises after clocking out for a shift. Due to the hassle of security checks, many
24 employees simply did not take break periods as after the search, so few minutes were left that the
25 employee would be reprimanded and assigned a negative point (after too many, a termination would
26 follow) for late returns from break periods.

27 11. Plaintiffs observed that due to the hassle of security checks, many employees simply did
28 not take break periods as after the search, so few minutes were left that the employee would be

1 reprimanded and assigned a negative point (after too many, a termination would follow) for late
2 returns from break periods. If employees clocked back in late, they would earn a negative mark and
3 be subject to termination.

4 **B. The Defendants**

5 12. Defendant, AMAZON.COM, LLC, is a Delaware Liability Corporation headquartered at
6 410 Terry Avenue, North, in Seattle, Washington, 98109, and is engaged in business in Los Angeles
7 County and throughout California. AMAZON operates one of the most well-known online
8 marketplaces in the country. Amazon.Com owns and operates over 50 warehouse distribution centers
9 across the United States, including, but not limited to, the States of Arizona, California, Delaware,
10 Indiana, Kansas, Kentucky, New Hampshire, New Jersey, Nevada,

11 13. SMX, LLC is an Illinois Limited Liability Company. STAFF MANAGEMENT, LLC is
12 an Illinois Limited Liability Company. Both do business in the state of California. Both are
13 headquartered in the State of Illinois, and hold active status in California, but did not provide an
14 address in the public records maintained by the state of California for an agent for service of process.

15 14. AMAZON obtains services of temporary employee agencies that also perform identical
16 tasks as AMAZON employee in the Fulfillment Center Warehouses. These entities are SMX and/or
17 STAFF MANAGEMENT, and other DOE entities who offer AMAZON jointly hired, shared and
18 controlled employees as part of a common enterprise. Some staffing services who provide "Packers"
19 "Pickers" and "Warehouse Associates" may also jointly employ the employees but at this time, their
20 true names are unknown and are named at this point as DOES 1-10.

21 15. At all times relevant herein, Defendants, and each of them, maintained joint control and
22 were in law and in fact "Joint Employers" of said Plaintiffs and the proposed class and subclasses
23 they seek to represent. At all times relevant herein, AMAZON retained and exercised the right to
24 control the manner and means by which SMX, STAFF MANAGEMENT, and DOES 1-10
25 employees accomplished the work at Amazon.com locations. Amazon' supervisors directed and
26 controlled the work of DOE Defendant employees. Amazon.com exercises direct control over the
27 hours and other working conditions of all Plaintiffs and all similarly-situated hourly shift employees
28 who are paid on the payroll of DOES working at all Amazon.Com's warehouse locations in

1 California. Upon information and belief, employment data such as hours worked hourly rates of pay,
2 punch/clock systems and other benefit information is recorded in identical method for AMAZON
3 employees like Plaintiffs, and other staffing employees assigned identical positions by DOE entities
4 or by SMX and STAFF MANAGEMENT.

5 16. As set forth below, persons employed by Amazon.Com were all subjected to the same
6 illegal policies and practices as those employed by DOE Defendants. Each employee of Defendants
7 (both AMAZON and all DOE Defendants) were all subject to an individualized personal security
8 search on the premises so that AMAZON could curtail any shrinkage of inventory of products
9 through worker theft. All workers, regardless of suspicion or no suspicion at all, were required clear
10 security when seeking to leave the premises for any reason, including meal breaks, rest breaks and
11 end of shift. The process was not *de minimis* and required at minimum a 5-7 minute, or more, delay
12 after clocking out for meals or end of shift. Although rest breaks were not clocked, if the employee
13 sought to leave the employers secured area, another search would take place, thus limiting rest breaks
14 to little more than 3-5 minutes, rather than 10 continuous minutes as required by law and applicable
15 orders of the Industrial Welfare Commission (IWC).

16 17. The Joint Employers' search policy was required and not optional. The purpose of the
17 on-premises individual personal search was to prevent employee theft and was an essential part of the
18 job of the warehouse employees, and was done solely for the benefit of the employer to reduce loss
19 and ordained as a job duty of all employees to report or assist in loss preventions as a primary job
20 duty. The search is similar to an airport screening and subject to multiple people going through a
21 bottleneck in order to exit secured premises. However, the search is a required aspect of the job,
22 subject to termination for non-compliance, as the public has a right to avoid airports and take other
23 transportation if they wish. Plaintiffs and all other similar employees were required to remove all
24 personal belongings from their person such as wallets, keys, and belts, and pass through metal
25 detectors before being released from work and allowed to leave the facility. Defendants' policies and
26 practices required warehouse employees to leave their personal belongings such as cell phones in
27 their vehicles. Thus, warehouse employees were unable to engage in any personal activities during
28 the time spent waiting. Due to security, employees could not leave the premises for lunch and

1 remained essentially locked down for rest breaks as no one would have time to go out of the secure
2 area and return for a 10 minute rest period.

3 18. Defendants, and each of them, required such individual security screenings after the
4 employees clocked out of their shift and before leaving the secured area for breaks. Defendants'
5 policy did not pay any employee for any time related to the required security submission yet all time
6 was still under the direct control of the employer. Plaintiffs allege that on a typical day, including
7 interfered with meal periods, shortened or interrupted rest periods and clocking out for end of shift
8 took as much as 30-40 minutes of time depending on the number of employees seeking to be screened
9 at the same time. Each screening by definition was done by employer directive and the employee was
10 subject to the employer's control, but Plaintiffs, and other similar employees were not paid at their
11 regular rate of pay, at the minimum wage rate or at the appropriate overtime rate when shifts
12 exceeded 8 hours per day. Further, meal and rest periods that were interrupted or cut short by the
13 security clearance search never resulted in payment of a premium wage as required by law. Further,
14 there was no logistical obstacle that prevented the punch clocks from being stationed after the
15 security checkpoints and screenings were completed, such that break periods could be fully realized
16 without being cut short or interrupted by the search, and such that end of shift screenings could have
17 been performed while on the clock by leaving the clock out devices just beyond the security clearance
18 areas.

19 19. Plaintiffs are unaware of the true names, capacities, relationships, and extent of
20 participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 100, but are
21 informed and believe, and based thereon allege, that said Defendants are legally responsible for the
22 wrongful conduct alleged herein, and therefore sues these Defendants by such fictitious names.
23 Plaintiffs will amend this complaint when their true names and capabilities are ascertained.

24 20. Plaintiffs are informed and believe and, based thereon allege, that each Defendant,
25 directly or indirectly, or through agents or other persons, employed Plaintiffs and other members of
26 the class, and exercised control over their wages, hours, and working conditions. Plaintiffs are
27 informed and believe, and based thereon allege, that each Defendant acted in all respects pertinent to
28 this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in

1 all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other
2 Defendants. The Defendants, and each of them, jointly managed, operated and controlled all aspects
3 of the manner and means of employee work and were a joint employer under California law and
4 liable for illicit wage and hour practices alleged herein.

5 21. By this Complaint, Plaintiffs brings this case as a representative action seeking penalties
6 for the State of California in a representative capacity, as provided by the Private Attorneys General
7 Act (PAGA) to the extent permitted by law, as aggrieved employees who held the position identified
8 and did not receive all compensable wages for time worked. A true and correct copy of the Notice
9 correspondence showing compliance with Labor Code §2699.3 is attached as Exhibit "A" and
10 demonstrates that Plaintiffs are aggrieved employees and have standing to bring a representative
11 action on behalf of the State of California Labor and Workforce Development Agency (LWDA) and
12 as a private attorney general. No notice of cure by Defendants was provided and no notice of
13 investigation was received from the LWDA in the statutorily proscribed 33-day period since the
14 mailing of the notice of the action. Accordingly, Plaintiffs files this action as a "Representative
15 Action" as provided by the California Code of Civil Procedure and as specifically permitted and
16 authorized by Labor Code §2699.3(a)(2)(C).

17 IV.

18 GENERAL ALLEGATIONS

19 22. During all, or a portion, of the Class Period, Plaintiffs and each member of the Plaintiff
20 Class were employed by Defendants, in the State of California. Plaintiffs suffered damages, wage
21 loss and legally cognizable harm due to Defendants' policies and practices, and have standing to
22 bring this case individually and as representatives for other similarly impacted employees.

23 23. Defendants hire hourly employees in their warehouses throughout California and each
24 uniformly and systematically requires as a condition for employment that the employee submit to
25 daily security search on the premises to protect property and prevent loss of merchandise through
26 theft. Employees are not free to avoid the security clearance policy without being subject to
27 immediate termination or reprimand.

28 24. The common impact of the policy to Plaintiffs and all other employees during the

1 proposed Class Period (defined as 4 years from the date of commencement of this suit until
2 commencement of trial in this matter) was as follows: (1) Employees would clock out for meal
3 periods, but then be held up anywhere from 5-15 minutes each day to go through security, leaving
4 only 15-25 minutes to have a meal break; (2) Employees seeking a rest break off premises would
5 also have to submit to search again, interrupting and diminishing the possibility of have a full 10
6 minute duty free rest period for every four hours worked; (3) Employees at the end of the shift were
7 required to clock out first, then go through individualized security inspection along with all other
8 employees whose shifts ended, which resulted in anywhere from 15-30 minutes, or more, of time
9 waiting before employees would leave the employers premises and seek their car or other
10 transportation away from the warehouse. At all times prior to leaving the building to enter the
11 parking or transportation area, Plaintiffs and all employees remained under Employer control and
12 were subject to further direction, further search or other questions for any issue that might arise from
13 personal items that the company might suspect to be merchandise from the warehouse, yet all of this
14 time, as a matter of practice and corporate policy, was uncompensated. All of these policies were
15 required by the Joint Employers, collectively, in their exercise of dominion and control over the
16 Plaintiffs and other similar employees. The policies were systematic and continuous, only the
17 amounts of actual unpaid or uncompensated time varied among class members, in an amount that is
18 subject to aggregation and manageable class wide proof.

19 25. The process described herein was systematic and continuous, and led many employees
20 to forego required meal and rest breaks simply because it became futile to try to take a break. Even
21 with perfect planning, Plaintiffs stated that there was no way to get through security and on to a break
22 period without losing a minimum of 5 minutes of break time for any employee who left a secure area.
23 For Outbound Pickers, the problem was compounded because break areas (cafeteria) were beyond a
24 secured area, and as a result, at least 5-10 minutes or more (depending on how many employees were
25 trying to take a lunch concurrently) of time eroded away from a 30-minute meal period, leaving very
26 little time to obtain any food in the cafeteria and clock back in without 30 minutes. On many
27 occasions, just the line to clock in threatened discipline for being late, irrespective of wait times from
28 the initial security clearance. For Inbound Packers, the problem of the security checkpoint was only a

1 problem if the employee wanted to leave the premises, which again, would require a clock out first,
2 then the security search process. Packers had access to the cafeteria without having to go through
3 security, Pickers did not. Packers, however, would have to go through security after clock out if they
4 wanted to exit company premises and go to their vehicle or off site location, with the same result and
5 common impact as to Pickers, but perhaps with less frequency.

6 26. The security policy resulted in a failure to pay all wages due for compensable work or
7 work time wherein Plaintiffs remained subject to employer control but was required to clock-out
8 before the security process was complete. This policy and practice therefore violated California
9 Labor Code Section 200-202, Labor Code Section 1194 and IWC Wage Order 4-2001, Section 2.

10 27. As a result of the use of the security clearance process, during the proposed California
11 Class Period, the Defendants, by virtue of centralized and uniform pay policies failed to provide
12 accurate, itemized wage statements to Plaintiffs and similarly situated employees as required by
13 Labor Code section 226. In fact, each day, the time clock did not account for additional work duties
14 required by submitting to a lengthy security line on the premises, nor did it account for lunches that
15 were usually only 15 minutes or less in length after going through security. Defendants had actual
16 knowledge that its security check process lead to interrupted and shortened breaks and had actual
17 knowledge that end of shift searches after clock out left employees, many of whom were into
18 overtime hours, with anywhere from 20-40 minutes uncompensated as the agreed rate of pay, whether
19 straight time, overtime or double-time. By placing time clocks before the security checkpoint,
20 Defendants know that employees were still subject to control but not being remunerated for that time
21 as a result of Defendants' policies and practices.

22 28. During the class period, Defendants failed to pay all wages owed Plaintiffs and similarly
23 situated terminated employees as required by Labor Code section 203. This claim results not only
24 from failure to pay premium wages for missed, late, interrupted or short break periods under Labor
25 Code Section 226.7 and corresponding IWC Wage Order 4-2001 Sections 11 and 12, but also for
26 failing to pay for additional work time during clocked out meals and post clock out duties to submit
27 to on premises personal search.

28 29. Business and Professions Code, section 17203 provides that any person who engages in

1 unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions
2 Code, section 17204 provides that any person who has suffered actual injury and has lost money or
3 property as a result of the unfair competition may bring an action in a court of competent jurisdiction.
4 The claims for which restitution are owed relate to unpaid wages for late and interrupted meal periods
5 and for work periods at the end of each shift after clock out, but before employer required duties to
6 submit to search were completed.

7 V.

8 **CLASS ACTION ALLEGATIONS**

9 30. Plaintiffs bring this action on behalf of themselves and all other similarly situated
10 persons as a class action pursuant to California Code of Civil Procedure section 382. Plaintiffs seek to
11 represent a Class composed of and defined as follows:

12 **Plaintiff Class:**

13 All current and former hourly (nonexempt) warehouse employees employed by the
14 Joint Employer Defendants in the State of California at any time beginning four years
15 prior to the filing of this Complaint to the commencement of trial in this action who
were subject to Defendants' security search policies.

16 31. Further, Plaintiffs bring this action on behalf of themselves and all other similarly
17 situated persons in Subclasses of the Plaintiff Class, defined as:

18 A. **Unpaid Straight-time Subclass:** All members of the proposed Plaintiff Class
19 who were subject to Defendants' policy and/or practice of requiring said employees to submit to
20 individualized on-premises searches after having clocked-out in a given workday and who were not
21 compensated by Defendants at their regular rate of pay for the amount of time it took to complete the
22 security screening process;

23 B. **Unpaid Overtime Subclass:** All members of the proposed Plaintiff Class who
24 were subject to Defendants' policy and/or practice of requiring said employees to submit to
25 individualized on-premises searches after having clocked-out in a given workday and who were not
26 compensated for the amount of time it took to complete the security screening at appropriate overtime
27 rate of pay for hours worked in excess of eight (8) hours in a day or forty (40) in a workweek, or
28 appropriate double-time rate of pay for hours worked in excess of twelve (12) hours in a day.

1 C. **First Meal Period Subclass:** All members of the proposed Plaintiff Class who
2 were subject to Defendants' policy and/or practice of requiring said employees to submit to
3 individualized on-premises searches after having clocked-out for their first meal period, and who, as a
4 result of the delay by the security clearance process, were not provided with full 30-minutes of
5 uninterrupted, off-duty meal period time and who were not provided with compensation of one hour's
6 pay at the employee's regular rate of pay.

7 D. **Second Meal Period Subclass:** All members of the proposed Plaintiff Class
8 who were subject to Defendants' policy and/or practice of requiring said employees to submit to
9 individualized on-premises searches after having clocked-out for their second meal period (for shifts
10 exceeding 10 hours in length) and who, as a result of the delay by Defendants' security clearance
11 process, were not provided with full 30-minutes of uninterrupted, off-duty meal period time and who
12 were not provided with compensation of one hour's pay at the employee's regular rate of pay.

13 E. **Rest Period Subclass:** All members of the proposed Plaintiff Class who worked
14 periods of four hours or major fraction thereof who, as a result of Defendants' policy and/or practice
15 of requiring said employees to submit to individualized on-premises searches, were not permitted to
16 take an uninterrupted rest period of at least 10 minutes in length, and who were not paid
17 compensation of one hour's pay at the employee's regular rate of pay for each such day that a full 10
18 minutes uninterrupted rest period was not provided.

19 F. **Waiting Time Subclass:** All members of the proposed Plaintiff Class who,
20 within three years of the filing of the Complaint, were not paid all wages due at the time of their
21 respective separation/termination from the company based on the Defendants' failure to pay all wages
22 earned as a result of Defendants' individualized on-premises search policy requirement;

23 G. **Wage Statement Subclass:** All members of the proposed Plaintiff Class who,
24 within one year of the filing of the Complaint, were subject to a company practice of failing to
25 accurately itemize wage statements as a result of Defendants' individualized on-premises search
26 policy requirement;

27 H. **UCL Subclass:** All members of the proposed Plaintiff Class who are entitled to
28 the restitution of unpaid wages that occurred as a result of the employee being subject to Defendants'

1 individualized on-premises search policy requirements

2 32. Plaintiffs reserve the right under Rule 3.765(b), California Rules of Court, to amend or
3 modify the Class description with greater specificity or further division into subclasses or limitation
4 to particular issues.

5 33. This action has been brought and may be properly maintained as a class action under the
6 provisions of California Code of Civil Procedure section 382 because there is a well-defined
7 community of interest in the litigation and the proposed Class is easily ascertainable.

8 **A. Numerosity**

9 34. The members of the Class are so numerous that individual joinder of all of them as
10 Plaintiffs is impracticable. While the exact number of the Class members is unknown to Plaintiffs at
11 this time, Plaintiffs are informed and believe, and based thereon allege, that there are more than 100
12 Class members, who, at all relevant times, were employed in the State of California.

13 **B. Commonality**

14 35. There are questions of law and fact common to the Class that predominate over any
15 questions affecting only individual Class Members. These common questions of law and fact
16 include, without limitation:

- 17 a. Whether the Joint Employer Defendants are joint employers of the class
18 members under California law;
- 19 b. Whether the Joint Employer Defendants violated California law by failing to
20 impose uniform policies in all their California facilities, which would have
21 allowed class members to record and be paid for all time during which they were
22 under the Joint Employers' control;
- 23 c. Whether Defendants violated Labor Code section 204 by failing to pay all wages
24 and overtime for periods of time employees were required to submit to
25 individualized on-premises security searches;
- 26 d. Whether Defendants violated Labor Code sections 510 or 1194 by improperly
27 failing to pay the applicable overtime rate of pay when an employee worked
28 more than eight (8) hours in a workday, but who were not compensated for time

1 required to exit facilities due to Defendants' requirement that all such employees
2 submit to individualized on-premises search before being allowed to leave the
3 employer's premises;

4 e. Whether Defendants violated Labor Code sections 226.7 and 512 and IWC
5 Wage Order 4-2001, Section 11 & 12 by failing to provide full 30 minutes off-
6 duty meal periods without interruption caused by Defendants' requirement that
7 all such employees submit to individualized on-premises search after clocking
8 out but before allowing employee to engage in a meal period;

9 f. Whether Defendants violated Labor Code sections 226.7 and 512 and IWC
10 Wage Order 4-2001, Section 11 & 12 by failing to authorize full 10 minute off-
11 duty rest periods without interruption caused by Defendants' requirement that all
12 such employees submit to individualized on-premises search before allowing
13 employee to engage in a rest period;

14 g. Whether Defendants violates Labor Code section 226 by knowingly and
15 intentionally failing to provide accurate itemized wage statements showing all
16 hours worked at the appropriate and requisite rates of pay;

17 h. Whether Defendants violates Labor Code sections 201 and/or 202 by not paying
18 Class Members who are no longer employed by Defendants all earned wages,
19 including straight time wages, overtime wages, and wages due under Labor Code
20 sections 510 and 1194, upon their termination of employment. If so, whether
21 such violations were "willful" within the meaning of Labor Code section 203;

22 i. Whether Defendants violated the Unfair Competition Law, Business &
23 Professions Code, section 17200, *et seq.*, by engaging in the conduct alleged in
24 this complaint;

25 j. The effects and the extent of any injuries sustained by the Plaintiff Class and
26 Plaintiff Subclass members and appropriate type and/or measure of damages;

27 k. The amount of restitution owed by Defendants attributable to violation of the
28 Unfair Competition Law by failure to pay overtime compensation to the class

1 members, and other wage violations;

2 l. Appropriateness and nature of relief to each Plaintiff Class and Subclass member;

3 m. The extent of liability of each Defendant, including DOE defendants, to each
4 Plaintiff Class and Subclass member; and

5 n. Whether injunctive relief is appropriate to ensure Defendants' compliance with
6 the requirements of the Labor Code with respect to members of the Class who
7 are still currently employed by Defendants.

8 **C. Typicality**

9 36. The claims of the named Plaintiffs are typical of the claims of the Class. Plaintiffs and
10 all members of the Class and subclasses sustained injuries and damages arising out of and caused by
11 the Defendants' common course of conduct in violation of laws, regulations that have the force and
12 effect of law, and statutes as alleged.

13 **D. Adequacy of Representation**

14 37. Plaintiffs have each agreed to serve as representatives of all similarly situated employees
15 to raise common claims. Each understands that they owe a fiduciary obligation to obtain competent
16 counsel and take actions to promote, advance and prevail on the claims being made, not just
17 individually, but for the collective group of employees as a whole. Plaintiffs will fairly and
18 adequately represent and protect the interests of the members of the Class. Plaintiffs have agreed to
19 represent the proposed class and act as fiduciaries for their interests in addition to their own.
20 Plaintiffs are aggrieved in a similar manner as the proposed classes and subclasses, with the only
21 variation being the amount of loss and damage suffered by individual employees as a result of
22 Defendants' common, uniform and systematic practice. Counsel who represents Plaintiffs are
23 competent and experienced in litigating large employment class actions.

24 **E. Superiority of Class Action**

25 38. A class action is superior to other available means for the fair and efficient adjudication
26 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law
27 and fact common to the Class predominate over questions affecting only individual Class members.
28 Each Class member has been damaged and is entitled to recovery by reason of Defendants' illegal

1 policy and/or practice of failing to pay straight, minimum, overtime and double-time wages, and
2 provide meal and rest periods. A Class action will allow those similarly situated to litigate their
3 claims in the most efficient and economical manner for the parties and the judicial system. Plaintiffs
4 are unaware of any difficulties that are likely to be encountered in the management of this action that
5 would preclude its maintenance as a class action.

6 **VI.**
7 **CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**

9 **Failure to Pay Hourly Wages, alternatively Minimum Wages**
10 **(On Behalf of Unpaid Straight Time Subclass)**

11 39. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
12 if fully set forth herein.

13 40. By failure to pay straight time wages, as alleged above, Defendants willfully violated the
14 provisions of Labor Code section 204. By failing to pay for all compensable work time, including
15 delays that were caused by Defendants' requirement for post-clock out individual on-premises
16 searches at the end of each shift and for any break periods where employees sought to be free from
17 employer control and premises. Defendants willfully violated the provisions of Labor Code sections
18 204 and 1194.

19 41. California law requires employers, such as Defendants, to pay compensation to all non-
20 exempt employees for all hours actually caused or suffered to work, including waiting time for
21 activities required by the employer.

22 42. Named Plaintiffs and the proposed class at all times were non-exempt hourly employees
23 entitled to be paid compensation for all hours worked and all hours subject to the Defendants
24 requirements and controls on its premises, including time engaged in loss prevention security
25 searches.

26 43. Defendants at no time paid compensation for time expended by employees related to
27 delays caused by the employer's required compliance with individualized searches when exiting the
28 warehouse, whether at straight time, overtime or double time rates as appropriate and as will be
shown by Defendants' payroll and punch clock data.

44. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,

1 Named Plaintiffs and Unpaid Wage Subclass members have sustained damages, including loss of
2 compensation for straight time worked on behalf of Defendants in an amount to be established at trial,
3 prejudgment interest, and costs and attorney's fees, pursuant to statute and other applicable law.

4 **SECOND CAUSE OF ACTION**
5 **Failure to Pay Overtime Wages**
6 **(On Behalf of Unpaid Overtime Subclass)**

7 45. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
8 if set forth herein.

9 46. By failing to compensate for security clearance time and failing to allow for full 30
10 minutes meal periods, Plaintiffs and the class were engaged by the employer without pay so as to
11 comply with Defendants' mandated search policy. Employees had no choice but to submit to the
12 process and there were insufficient personnel to permit a *de minimis* delay. In fact for meal periods,
13 employees often were left with as little as 15 minutes after the search to eat and then clock back in
14 without negative reprimand. When shifts exceeded 8 hour or 12 hours in a workday, employees
15 subject to the security policy had wages at overtime and double time rates not paid for time still
16 subject to Defendants direct supervision and control. Defendants likely saved hundreds of thousands
17 of dollars by requiring the security search to be conducted after the employee clock out, even though
18 the security check could have been performed first and employees allowed to clock out as soon as the
19 process was completed. This procedure, by nature, appears designed to have minimized wages for
20 workers and maximize profits for the employer. As a consequence, Defendants illegally failed to pay
21 overtime wages, and in so doing, Defendants willfully violated the provisions of Labor Code sections
22 510 and 1194, IWC Wage Order 16-2001 and California Code of regulations, Title 8, section
23 11160(3).

24 47. California law requires employers, such as Defendants, to pay overtime compensation to
25 all non-exempt employees for all hours worked over eight in a day or forty per week for overtime and
26 over twelve in a day for double-time.

27 48. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,
28 Named Plaintiffs and the Overtime Subclass members have sustained damages, including loss of
compensation for overtime worked on behalf of Defendants in an amount to be established at trial,

1 prejudgment interest, and costs and attorney's fees, pursuant to statute and other applicable law.

2 **THIRD CAUSE OF ACTION**

3 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4 **(On Behalf of the First Meal Period Subclass and the Second Meal Period Subclass)**

5 49. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
6 if set forth herein.

7 50. By failing to authorize and permit statutory meal periods, and by failing to provide
8 compensation for these meal periods, as alleged above, Defendant willfully violated the provisions of
9 Labor Code sections 226.7 and 512, IWC Wage Order No. 16-2001 and California Code of
10 Regulations, section 11160(11). The use of Defendants' security policy was to shift the process of
11 security onto the hourly employees purportedly off duty time, but in fact, this was a required duty by
12 employees to submit to search. As a consequence, virtually all meal periods during the class period
13 were non-compliant in that they were cut short and interrupted by the search protocol.

14 51. As a result of the unlawful acts of Defendants, Plaintiffs and the Meal Period Subclass
15 she seeks to represent have been deprived of meal periods, premium wages and/or other
16 compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus
17 interest, attorney's fees, and costs.

18 52. Plaintiffs and the Meal Period Subclass they seek to represent request relief as described
19 below. The nature of the claim is amenable for class treatment as anytime any employee wanted to
20 leave the secure area of the employer's premises, they were subject to search that was taken away
21 from what was supposed to be 30 continuous uninterrupted minutes of meal period time in order to
22 comply with law.

23 **FOURTH CAUSE OF ACTION**

24 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
25 **(On Behalf of the Rest Period Subclass)**

26 53. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
27 if set forth herein.

28 54. By failing to authorize and permit rest periods, and by failing to provide compensation
for these rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code
section 226.7. The use of Defendants' security policy was to shift the process of security onto the

1 hourly employees purportedly off duty time, but in fact, this was a required duty by employees to
2 submit to search. As a consequence, virtually all persons who sought rest periods during the class
3 period that required individualized on premises search were non-compliant in that they were cut short
4 and interrupted by the search protocol itself.

5 55. As a result of the unlawful acts of Defendants, Plaintiffs and the Rest Period Subclass
6 they seek to represent have been deprived of rest periods, premium wages and/or other compensation
7 in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest,
8 attorney's fees, and costs.

9 56. Plaintiffs and the Rest Period Subclass they seek to represent request relief as described
10 below.

11 **FIFTH CAUSE OF ACTION**
12 **Failure to Timely Pay Wages Due At Termination**
13 **(On Behalf of the Waiting Time Subclass)**

14 57. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
15 if fully set forth herein.

16 58. California Labor Code section 203 provides that if an employer willfully fails to timely
17 pay wages, the employer must continue to pay the subject employee's wages until the back wages are
18 paid in full or an action is commenced, up to a maximum of thirty days of wages.

19 59. All Waiting Time Claim Subclass members who ceased employment with Defendants
20 are entitled to unpaid compensation, but to date have not received such compensation.

21 60. More than thirty days have passed since Plaintiffs and members of the Waiting Time
22 Subclass left Defendants' employment.

23 61. Plaintiffs are informed and believe, and based thereupon allege, that Defendants
24 purposefully engaged in a common scheme and design to deprive employees of their full wages and
25 benefits under California law by failing to pay for all travel time, improperly automatically deducting
26 thirty minutes for a meal period without reference to whether employees actually took meal periods,
27 and failing to pay all hours over eight (8) in a day and over forty (40) in a workweek at the overtime
28 rate of pay and all hours over twelve (12) in a day at the double-time rate of pay.

62. As a consequence of Defendants' willful conduct in not paying compensation for all

1 hours worked, the California Class Members whose employment ended during the class period are
2 entitled to thirty days' wages under Labor Code section 203, together with interest thereon and
3 attorney's fees and costs.

4 **SIXTH CAUSE OF ACTION**
5 **Failure to Provide Itemized Employee Wage Statements**
6 **(On Behalf of the Wage Statement Subclass)**

6 63. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
7 if fully set forth herein.

8 64. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
9 wage statements including, inter alia, hours worked, to Plaintiffs and Wage Statement Subclass
10 members in accordance with Labor Code section 226(a) and applicable IWC Wage Orders. Such
11 failure caused injury to Plaintiffs and Wage Statement Subclass members, by, among other things,
12 impeding them from knowing the amount of wages to which they are and were lawfully entitled and
13 under-reporting wages and hours for which pay was due and owing. At all times relevant herein,
14 Defendants have failed to maintain appropriate records of hours worked by the Plaintiffs and Wage
15 Statement Subclass members as required under Labor Code section 1174(d).

16 65. Plaintiffs and Wage Statement Subclass members are entitled to seek injunctive relief
17 requiring Defendants to comply with Labor Code sections 226(a) and 1174(d), and further seek the
18 amount provided under Labor Code sections 226(e) and 1174.5, including the greater of all actual
19 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
20 dollars (\$100) per employee for each violation in a subsequent pay period.

21 **SEVENTH CAUSE OF ACTION**
22 **Violation of the Unfair Competition Law**
23 **(On Behalf of each Class Member and Subclass Member)**

23 66. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
24 if fully set forth herein.

25 67. Defendants' failure to pay all hourly and overtime wages for non-commute travel time
26 owed, use the appropriate rate of overtime pay for shifts exceeding eight (8) hours of work per day
27 and/or over forty (40) hours in a workweek and twelve (12) in a day, failure to authorize and permit
28 meal and rest periods or pay appropriate compensation in lieu thereof, failure to fully reimburse for

1 all business related expenses and constitute unlawful activity, acts and practices that are prohibited by
2 Business and Professions Code sections 17200, *et seq.* The actions of Defendants described above
3 constitute false, unfair, fraudulent and deceptive business practices, within the meaning of Business
4 and Professions Code sections 17200, *et seq.* Defendants have violated multiple provisions of
5 California law and applicable regulations and Orders of the IWC that have the same force and effect
6 of a violation of law. This includes, without limitation California Labor Code Sections 201-203,
7 226.7, 512, and 1194, which serve as statutory predicates for which restitution is owed by
8 Defendants, as well as Wage Order 4-2001, Section 11-12, and applicable regulations of the
9 California Code of Regulations that relate to record keeping, overtime pay calculations, and failure to
10 properly account for and pay lost as a result of security policies referenced herein.

11 68. Named Plaintiffs are entitled to restitution and other equitable relief against such
12 unlawful practices in order to prevent future damage, for which there is no adequate remedy at law,
13 and to avoid a multiplicity of lawsuits.

14 69. As a result of these unlawful acts, Defendants have reaped and continue to reap unfair
15 benefits and illegal profits at the expense of Plaintiffs and the proposed Class and the proposed
16 Subclasses they seek to represent. Defendants should make restitution for these ill-gotten gains to
17 restore to Plaintiffs and the members of the UCL Subclass the wrongfully under-reimbursed amounts,
18 underpaid wages and overtime pursuant to Business and Professions Code section 17203 and specific
19 performance of payment of penalties ordered under Business and Professions Code section 17202.

20 70. Plaintiffs are informed and believe, and based thereon allege, that Defendants are
21 unjustly enriched through the acts described above and that he and the proposed Class have and
22 continue to suffer irreparable prejudice by Defendants' unfair practices. Further, by engaging in such
23 activities, Defendants are illegally operating at an advantage to other law abiding employers in the
24 State of California and underpaying payroll and other applicable taxes that are collected by the State
25 and local governmental entities in California. Plaintiffs are informed and believe that other
26 competitors in the market place, to the extent they require security screenings of the nature described
27 herein, render it part of the employees compensable "hours worked" as required by Wage Order 4-
28 2004, and track the time subject to employer control as required under IWC record keeping

1 requirements.

2 71. The illegal conduct alleged herein is continuing, and there is no indication that
3 Defendants will not continue such activity into the future. Plaintiffs allege that Defendants will
4 continue to fail to pay all hourly and overtime wages, appropriate overtime rates of pay for shifts
5 where overtime is clearly worked, fail to pay all wages due at termination, and fail to pay and avoid
6 paying appropriate taxes, insurance, and unemployment withholdings.

7 **EIGHTH CAUSE OF ACTION**

8 **Violation of the Private Attorneys General Act of 2004 (“PAGA”)**
9 **(On Behalf of each Aggrieved Employee Against each Defendant)**

10 72. Plaintiffs re-allege and incorporate by this reference each of the foregoing paragraphs as
11 if fully set forth herein

12 73. Plaintiffs, by virtue of their employment with Defendants, and the Defendants’ failure to
13 pay all compensable wages for time worked, are aggrieved employees with standing to bring an
14 action under the Private Attorneys General Act (PAGA). Plaintiffs have satisfied all prerequisites to
15 serve as representatives of the general public to enforce California’s labor laws, including, without
16 limitation, the penalty provisions identified in Labor Code section 2699.5. (Exhibit “A”). Because
17 the LWDA took no steps within the time period required to intervene and Defendants took no
18 corrective action to remedy the allegations set forth above, Plaintiffs, as representatives of the people
19 of the State of California, will seek any and all penalties otherwise capable of being collected by the
20 Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes
21 each of the following, as set forth in Labor Code Section 2699.5, which provides that Section
22 2699.3(a) applies to any alleged violation of the following provisions: Sections 98.6, 201, 201.3,
23 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209,
24 and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of
25 Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231,
26 subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and
27 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551,
28 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,
1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections

1 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5,
2 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7,
3 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5,
4 Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26,
5 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and
6 subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10,
7 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section
8 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and
9 Sections 3095, 6310, 6311, and 6399.

10 74. Plaintiffs are informed and believe that Defendants have violated and continue to violate
11 provisions of the California Labor Code and applicable Wage Orders related to the payment of all
12 wages due at termination. Despite mailing Exhibit "A" at least 33-days before filing this First
13 Amended Complaint, no state agency has advised it intends to pursue this matter. By operation of
14 law, Plaintiffs are entitled to commence this cause of action in the California Superior Court as a
15 representative action under PAGA.

16 75. Plaintiffs, as personal representatives of the general public, will and do seek to recover
17 any and all penalties for each and every violation shown to exist or to have occurred during the one
18 year period before Plaintiffs filed Notice with the LWDA of their intent to bring this action, in an
19 amount according to proof, as to those penalties that are otherwise only available to public agency
20 enforcement actions. Funds recovered will be distributed in accordance with PAGA, with at least
21 75% of the penalties recovered being reimbursed to the State of California and the Labor and
22 Workforce Development Agency (LWDA).

23 VII.

24 PRAYER FOR RELIEF

25 WHEREFORE, Plaintiffs, on behalf of themselves individually and all members of the
26 proposed Plaintiff Class and subclasses they seek to represent, pray for relief as follows:

- 27 A. Certification of this action as a class action on behalf of the proposed class;
28 B. For an order certifying that action be maintained as a class action pursuant to Code of

1 Civil Procedure section 382 on behalf of a class of technicians or tower employees employed by
2 Defendants in the state of California within the last four and that notice of the pendency of this action
3 be provided to members of the California Class;

4 C. Designation of the Named Plaintiffs as Class Representatives and Plaintiffs' attorneys as
5 Counsel for the Class;

6 D. A declaratory judgment that the practices complained of herein are unlawful under
7 appropriate state law;

8 E. If appropriate, injunctive relief, as permitted by California's Unfair Competition Law,
9 Business & Professions Code Section 17203, et seq.

10 F. All appropriate state statutory penalties under Labor Code Sections 203 and 226;

11 G. All appropriate meal period premiums for non-compliant meals periods of less than full
12 30 minutes in length of off duty time as required by Labor Code Section 226.7 and applicable IWC
13 Wage Orders;

14 H. All appropriate rest period premiums for non-compliant rest periods of less than full 10
15 minutes in length of off duty time as required by Labor Code Section 226.7 and applicable IWC
16 Wage Orders;

17 I. An award of compensatory and liquidated damages pursuant to Labor Code section
18 1194.2, and restitution to be paid by Defendants according to proof;

19 J. For penalties for each violation of the Private Attorneys General Act (PAGA);

20 K. Pre-Judgment and Post-Judgment interest, as provided by law;

21 L. Such other equitable relief as the Court may deem just and proper; and

22 M. Attorneys' fees and costs of suit, including expert fees and fees pursuant to California
23 Labor Code sections 1194, California Code of Civil Procedure sections 1021.5, and other applicable
24 state laws.

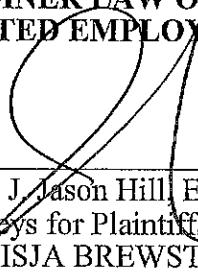
25 N. For an order that Defendants make restitution to Plaintiffs and the California Class due
26 to its unlawful business practices, including unlawfully-collected compensation pursuant to California
27 Business and Professions Code sections 17203 and 17204; and

28 ///

1 O. Such other legal equitable relief as this Court deems necessary, just, equitable and
2 proper.

3 **THIERMAN LAW FIRM**
4 **THE MARKHAM LAW FIRM**
5 **COHELAN KHOURY & SINGER**
6 **HAMNER LAW OFFICES, LP**
7 **UNITED EMPLOYEES LAW GROUP, P.C.**

7 Dated: January 27, 2014

By: 
8 J. Jason Hill, Esq.
9 Attorneys for Plaintiffs DAVID C. SALDANA,
10 LADAISSA BREWSTER, and MONICA CARLIN and all
11 others similarly situated

11 **DEMAND FOR JURY TRIAL**

12 PLAINTIFFS hereby demand a jury trial with respect to all issues triable of right by jury.

13 **THIERMAN LAW FIRM**
14 **THE MARKHAM LAW FIRM**
15 **COHELAN KHOURY & SINGER**
16 **HAMNER LAW OFFICES, LP**
17 **UNITED EMPLOYEES LAW GROUP, P.C.**

18 Dated: January 27, 2014

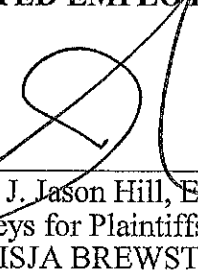
By: 
19 J. Jason Hill, Esq.
20 Attorneys for Plaintiffs DAVID C. SALDANA,
21 LADAISSA BREWSTER, and MONICA CARLIN and all
22 others similarly situated

EXHIBIT A

COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

ATTORNEYS AT LAW

605 "C" STREET, SUITE 200
SAN DIEGO, CALIFORNIA 92101-5305

Telephone: (619) 595-3001

Facsimile: (619) 595-3000

www.ckslaw.com

JEFF GERACI Δ

J. JASON HILL \dagger

KIMBERLY D. NEILSON

(\dagger Also admitted in Illinois)

(Δ Of Counsel)

TIMOTHY D. COHELAN, * APLC
ISAM C. KHOURY, APC
DIANA M. KHOURY, APC
MICHAEL D. SINGER, •APLC

(*Also admitted in the District of Columbia)

(•Also admitted in Colorado)

December 19, 2013

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO **LABOR CODE SECTION 2699.3**

To: The California Labor and Workforce Development Agency (LWDA) and California Agents for Service of Process for AMAZON.COM, LLC, a Delaware Limited Liability Corporation; SMX, LLC, an Illinois Limited Liability Company; and STAFF MANAGEMENT, LLC, an Illinois Limited Liability Company.

From: DAVID SALDANA, LADAIJA BREWSTER MONICA CARLIN on behalf of themselves and all similarly situated aggrieved employees in the State of California, as individuals and as proposed Representatives of the State of California

Factual Statement:

This case arises from the collective and joint conduct of AMAZON.COM, LLC; SMX, LLC; and/or STAFF MANAGEMENT, LLC (hereinafter referred to as "Joint Employers") for their failure to pay employees all compensable wages for time worked and/or subject to employer control and the failure to pay the requisite amount of straight-time, alternatively minimum wage, overtime and double-time wages for all time worked. The case also arises from the Joint Employers' engagement of warehouse employees, and a collective failure of the Joint Employers to provide its shared employees with uninterrupted and duty free meal and rest periods in violation of California law. The violations alleged herein stem from one overarching, systemic and uniform company practice that requires employees to be subject to individual security searches on Defendants' premises after the employees clock out for meal periods and at the end of the day when employees clock-out for the end of their shifts. The individualized security search is done on Defendants' premises, and results in up to 20-30 minutes of additional compensable work each day because the employees remain under the direct control by Joint Employer of Claimants and other aggrieved employees in the State of California.

The searches are easily feasible to be performed BEFORE the employees clock out for lunch or BEFORE they clock out for the end of their shifts, but in order to not pay wages, the individual on-premises security searches, done to protect the Defendants and their property, are systemically done AFTER the employee clock-out and interferes with the employees' ability to take full uninterrupted 30 minute lunches, full uninterrupted rest breaks and delays the employees ability to depart from the facility due to lines and volume of employees who are ending shifts. By systematically placing the security check after the clock out area, Defendants are able to cut short employees of all compensable time they are subject to employer control. The result is a daily underpayment for all time worked, daily interruptions (or shortened time) in

NOTICE OF LABOR CODE VIOLATIONS

Re: AMAZON.COM, LLC, SMX, LLC, and STAFF MANAGEMENT, LLC

December 19, 2013

Page 2

employee meal and rest periods, a failure to provide correctly itemized and accurate wage statements showing all hours actually caused or suffered to work, and a failure to pay all wages owed at separation to separated employees. Indeed, some employees are hired and fired on such short notice, the company regularly and systematically fails to pay all wages owed in the manner and in the time-frame required by California Labor Code Section 203.

LADAIJA BREWSTER and MONICA CARLIN are former employees of the Joint Employers who separated from their employment in November-December 2013. DAVID SALDANA is a former employee of the Joint Employers who separated from his employment in January 2013. They intend to seek legal action against the Joint Employers based on the facts stated and alleged in the attached courtesy copy of their "Class Action Complaint for Damages, Injunctive Relief, Damages and Restitution." This Draft Complaint is incorporated into this Notice by this reference.

SALDANA, BREWSTER and CARLIN suffered damages and injury related to underpayment of wages and failure to have compliant meal and rest periods due to the Joint Employers' use of a mandatory security screening policy that is done after clock-out even though the employees are all subject to employer control. The policy essentially guarantees that every meal or rest period is cut short and interrupted in order to have a physical bodily search, and such search is required to be consensual in order to maintain employment with Joint Employers. Accordingly, Claimants SALDANA, BREWSTER and CARLIN are aggrieved employees, and hereby give notice to Joint Employers of their intent to bring a cause of action for violation for the Private Attorneys General Act of 2004 ("PAGA") for the Joint Employer's collective failure to comply with California's wage and hour minimum requirements. During the entire course of their employment, Joint Employers failed to provide said employees and those similarly situated with proper straight time pay (for time spent engaged in security search) overtime pay (when searches required hours over 8 per day or 40 per week), compliant meal periods, compliant rest breaks, accurate pay records and timely termination pay. As a consequence, the Joint Employers have failed to comply with Labor Code Section 201-203, 221-222, 226.7, Labor Code Sections 510, 512, 1194, 221-223, and Industrial Welfare Commission Wage Orders 4-2001, sections 11 & 12. The Joint Employers have and continue to fail to provide accurate, timely and itemized pay stub accounting records to current employees in violation of Labor Code Section 226(a). Claimants are also informed and believe that such violations are ongoing, systematic and continuous. Claimants intend to seek damages and lost wages, and to assert a claim under Private Attorney General Act ("PAGA") to recover penalties as provided by California law.¹

¹Without limitation, if permitted, claimants will seek any and all penalties otherwise capable of being collected by the Commission. This includes, each of the following, as is set forth in Labor Code Section 2699.5, which states:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224,

NOTICE OF LABOR CODE VIOLATIONS

Re: AMAZON.COM, LLC, SMX, LLC, and STAFF MANAGEMENT, LLC

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Page 3

Theories of Labor Code Violations and Remedies:

Claimants' theories of liability are included in the proposed Class Action Complaint, attached hereto. For purposes of specificity, the following allegations are pertinent:

DAVID C. SALDANA is a resident of the State of California. At all relevant times herein, SALDANA was jointly employed by AMAZON.COM, SMX, STAFF MANAGEMENT, and DOES 1 through 10, inclusive as a shared employee subject to common and joint control. He was called a "warehouse associate" and during the course of his employment was regularly subjected to the Joint Employers' mandatory security searches, not permitted to leave the Joint Employers' facilities for breaks and was not paid premium wages for non-compliant breaks, was not paid for all work time wherein he was subject to the Joint Employer's control by security search. The time involved in not *de minimus*, but required airport style inspections of person and belongings, and Plaintiff estimates that meals and breaks were never provided in the amount of time required by law and regulations. He estimates that lunches were commonly cut short by 10 minutes or more, and that post-clock out time for leaving at the end of shifts could run anywhere from 10-20 minutes and sometimes longer if other employees presented issues (metal, shoes off, etc.) Because SALDANA clocked-out for lunches and at the end of shift before the mandatory security search, he was still "caused and suffered to work" under the direct control of the Joint Employers, but was not paid for that time at the requisite rate of pay, nor was he provided premium pay for at his regular rate of pay for shorted meal periods and rest periods as required by Labor Code Section 226.7 and Industrial Welfare Commission (IWC) Wage Order 4-2004, Sections 11-12. SALDANA remained an hourly nonexempt employee of Defendants until January 8, 2013 and was not timely paid all wages due at the time of his separation and his wage statements failed to itemize the additional compensable work time related to the Joint Employers' security requirements and procedures that shorted his meal times, rest periods, and

subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.

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end of shift searches. SALDANA's losses and wages, premiums, overtime pay (when the delays placed his hours into overtime or he was already working an overtime shift exceeding 8 hours in length), interest and penalties will be calculated in manner according to proof. SALDANA's hourly rate of pay was approximately \$12-\$13 per hour.

LADAIJA BREWSTER is a resident of the State of California. At all relevant times herein, Plaintiff BREWSTER was jointly employed by AMAZON.COM, SMX, STAFF MANAGEMENT, and DOES 1 through 10, inclusive as a shared employee subject to common and joint control throughout her employment. She was called a "outbound Packer" and during the course of her employment was regularly subjected to the Joint Employers' mandatory security searches, not permitted to leave the Joint Employers' facilities for breaks and was not paid premium wages for non-compliant breaks, was not paid for all work time wherein she was subject to the Joint Employer's control by security search. The time involved in not *de minimus*, but required airport style inspections of person and belongings, and Plaintiff estimates that meals and breaks were never provided in the amount of time required by law and regulations. She estimates that lunches were commonly cut short by 10 minutes or more, and that post-clock out time for leaving at the end of shifts could run anywhere from 10-20 minutes and sometimes longer if other employees presented issues (metal, shoes off, etc.) Because BREWSTER clocked-out for lunches and at the end of shift before the mandatory security search, she was still "caused and suffered to work" under the direct control of the Joint Employers, but was not paid for that time at the requisite rate of pay, nor was she provided premium pay for at her regular rate of pay for shorted meal periods and rest periods as required by Labor Code Section 226.7 and Industrial Welfare Commission (IWC) Wage Order 4-2004, Sections 11-12. BREWSTER remained an hourly nonexempt employee of Defendants until December 2, 2013, and was not timely paid all wages due at the time of her separation and her wage statements failed to itemize the additional compensable work time related to the Joint Employers' security requirements and procedures that shorted her meal times, rest periods, and end of shift searches. BREWSTER's losses and wages, premiums, overtime pay (when the delays placed his hours into overtime or he was already working an overtime shift exceeding 8 hours in length), interest and penalties will be calculated in manner according to proof. BREWSTER's hourly rate of pay was approximately \$10-\$12 per-hour. As of at least December 6, 2013, BREWSTER had not received her final pay from the Joint Employers.

MONCIA CARLIN is a resident of the State of California. At all relevant times herein, Plaintiff CARLIN was jointly employed by AMAZON.COM, SMX, STAFF MANAGEMENT, and DOES 1 through 10, inclusive as a shared employee subject to common and joint control throughout her employment. She was called a "inbound Picker" and during the course of her employment was regularly subjected to the Joint Employers' mandatory security searches, not permitted to leave the Joint Employers' facilities for breaks and was not paid premium wages for non-compliant breaks, was not paid for all work time wherein she was subject to the Joint Employer's control by security search. The time involved in not *de minimus*, but required airport style inspections of person and belongings, and Plaintiff estimates that meals and breaks were never provided in the amount of time required by law and regulations. She estimates that lunches were commonly cut short by 10 minutes or more, and that post-clock out time for

NOTICE OF LABOR CODE VIOLATIONS

Re: AMAZON.COM, LLC, SMX, LLC, and STAFF MANAGEMENT, LLC

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Page 5

leaving at the end of shifts could run anywhere from 10-20 minutes and sometimes longer if other employees presented issues (metal, shoes off, etc.) Because CARLIN clocked-out for lunches and at the end of shift before the mandatory security search, she was still "caused and suffered to work" under the direct control of the Joint Employers, but was not paid for that time at the requisite rate of pay, nor was she provided premium pay for at her regular rate of pay for shorted meal periods and rest periods as required by Labor Code Section 226.7 and Industrial Welfare Commission (IWC) Wage Order 4-2004, Sections 11-12. CARLIN remained an hourly nonexempt employee of Defendants until November 23, 2013, and was not timely paid all wages due at the time of her separation and her wage statements failed to itemize the additional compensable work time related to the Joint Employers' security requirements and procedures that shorted her meal times, rest periods, and end of shift searches. CARLIN's losses and wages, premiums, overtime pay (when the delays placed his hours into overtime or she was already working an overtime shift exceeding 8 hours in length), interest and penalties will be calculated in manner according to proof. CARLIN's hourly rate of pay was approximately \$10-\$12 per hour.

The result of Joint Employers' security policy ensured that all proper work time was not paid at the required rate of pay due to the placement of the time-clock before required security screening. This violated Labor Code Section 1194 and Sections 201-202. Any agreement to allow for the searches after clock time is void under Labor Code Section 206.5. The Joint Employers' also failed to provide meal periods for claimant and all other similarly situated employees as required by Labor Code Section 226.7, Labor Code Section 512, and Industrial Welfare Commission Wage Orders 4-2001(11). Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code Section 558 and applicable IWC Wage Orders. Furthermore, since Joint Employers' policy required exercise of direct control of the employees during their meal periods, the policy violates Labor Code Section 226.7(a), Claimants therefore will seek wages of one additional hour of pay as permitted by Labor Code Section 226.7(b) as well as all available penalties as set forth in Labor Code Section 2699(f.)

Claimants were at all times entitled to 10 minute duty-free rest breaks for approximately every 4 hours worked. The Joint Employers' policy collectively failed to authorize or permit rest breaks for claimants and all other similarly situated employees engaged in the same tasks and function as required by Labor Code Section 226.7, Labor Code Section 512, and Industrial Welfare Commission Wage Orders. The rest periods, although fictionally "permitted" did not exist as no employee could leave premises and leave the joint control of the employers' security before the requisite 10-minute time period was impaired or impossible to take. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code Section 558 and applicable IWC Wage Orders. The required security clearance violated Labor Code Section 226.7(a) as to rest periods and Claimants seek wages of one additional hour of pay as permitted by Labor Code Section 226.7(b) as well as all available penalties as set forth in Labor Code Section 2699(f.)

NOTICE OF LABOR CODE VIOLATIONS

Re: AMAZON.COM, LLC, SMX, LLC, and STAFF MANAGEMENT, LLC

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Derivative claims also exist for the Joint Employer's collective failure to provide accurate itemized wage statements and to pay all wages due to former or separated employees in a timely manner as required by Labor Code Section 226(a) and 203, respectively. Because Claimants and all other aggrieved employees were not paid for compensable work time engaged in the required security line, the Joint Employer's knew that they were not paying all wages due or accurately reporting all time worked. Since the security policy is fully within the Joint Employers' power to control employees, Claimants contend that any policy that requires individualized search either pre or post shift clock time is an unfair business practice under California Business & Professions Code Section 17200, et seq. Employees must be allowed to clock-in before any such search and clock-out after any such search, period, or else the employers take a windfall of subjecting employees to dominion and control without pay.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code Section 1194 and other penalties, as permitted by Labor Code Section 2699, Labor Code Section 210, and waiting time penalties for former employees, pursuant to Labor Code Section 203.

Respectfully submitted,


J. JASON HILL, ESQ.
COHELAN KHOURY & SINGER

Enclosure:

Draft Copy of Class Action Complaint

VIA CERTIFIED U.S. MAIL WITH RETURN RECEIPT

California Labor and Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814

VIA CERTIFIED U.S. MAIL WITH RETURN RECEIPT

AMAZON.COM, LLC
c/o CSC - LAWYERS INCORPORATING SERVICE
2730 Gateway Oaks Dr., Suite 100
Sacramento, CA 95833

Courtesy copy to listed Corporate Headquarters:

AMAZON.COM, LLC
410 Terry Avenue, N
Seattle, Washington 98109

NOTICE OF LABOR CODE VIOLATIONS

Re: AMAZON.COM, LLC, SMX, LLC, and STAFF MANAGEMENT, LLC

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Page 7

SMX, LLC

c/o CSC - LAWYERS INCORPORATING SERVICE

2730 Gateway Oaks Dr., Suite 100

Sacramento, CA 95833

Courtesy copy to listed Corporate Headquarters:

SMX, LLC

860 West Evergreen Avenue

Chicago, IL 60642

STAFF MANAGEMENT, LLC

c/o CSC - LAWYERS INCORPORATING SERVICE

2730 Gateway Oaks Dr., Suite 100

Sacramento, CA 95833

Courtesy copy to listed Corporate Headquarters:

STAFF MANAGEMENT, LLC

860 West Evergreen Avenue

Chicago, IL 60642

cc: (Via electronic mail and U.S. Mail only)

Mark R. Theirman, Esq. (SBN 72913)

THIERMAN LAW FIRM

7287 Lakeside Drive

Reno, NV 89511

Tel: (775)284-1500 / Fax: (775)703-5027

David R. Markham, Esq. (SBN 71814)

THE MARKHAM LAW FIRM

750 B Street, Suite 1950

San Diego, CA 92101

Tel: (619) 399-3995 / Fax: (619)615-2067

Christopher J. Hamner, Esq. (SBN 197117)

HAMNER LAW OFFICES, LP

15760 Ventura Blvd., Suite 860

Encino, CA 91436

Tel: (818) 386-0444 / Facsimile: (818) 386-0050

Walter L. Haines, Esq. (SBN 71075)

UNITED EMPLOYEES LAW GROUP, P.C.

65 Pine Ave., Suite 725

Long Beach, CA 90802

Tel: (562) 256-1047 / Fax: (562) 256-1006

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X EMPLOYMENT DEVELOPMENT DEPARTMENT 800 Capitol Mall <input type="checkbox"/> Addressee</p> <p>B. Received by <u>Printed Name</u> <u>CA</u> <u>05/04/04</u> Date of Delivery</p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to: California Labor and Workforce Development Agency 801 K Street, Suite 2101 Sacramento, CA 95814</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label): 7012 3460 0001 4555 0050</p>	
PS Form 3811, February 2004	Domestic Return Receipt
	102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Amazon.com, LLC
c/o CSC - Lawyers Incorporating
Service
2730 Gateway Oaks Dr., Suite 100
Sacramento, CA 95833

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Daniel L. Re... Addressee

B. Received by (Printed Name) Date of Delivery
Daniel L. Re... *12/23*

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number

(Transfer from service label)

7012 3460 0001 4555 0067

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Amazon.com LLC 40 Terry Avenue, N Seattle, Washington 98109	B. Received by (Printed Name) RN	C. Date of Delivery
	D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes 7012 3460 0001 4555 0074	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
SMX LLC
c/o CSC - Lawyers Incorporating
Service
2730 Gateway Oaks Dr., suite 100
Sacramento, CA 95833

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
- B. Received by (Printed Name) Date of Delivery
Daniel R. [Signature] 12/23
- D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
(Transfer from service label) 7012 3460 0001 4555 0081

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Staff Management, LLC
c/o CSC-Lawyers Incorporating
Service
2730 Gateway Oaks Dr, Suite 100
Sacramento, CA 95833

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Daniel L. Reid* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
Daniel L. Reid 2/23

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

Article Number

(Transfer from service label)

7012 3460 0001 4555 0104

Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1549

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Staff Management, LLC
860 West Evergreen Avenue
Chicago, IL 60642

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

JOHN

C. Date of Delivery

12/01

D. Is delivery address different from Item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

G.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(Transfer from service label)

7012 3460 0001 4555 0111

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540