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CLEARINGHOUSE COURT
SAN DIEGO COUNTY, CA

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION**
12

13 LORI RHEA, on behalf of herself and all others
14 similarly situated and on behalf of the general
public

15
16 Plaintiff,

17 v.

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19 GENERAL ATOMICS, a California
20 Corporation and DOES 1 through 100, Inclusive,

21
22 Defendants.
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CASE NO. 37-2012-00090447-CU-OE-CTL

CLASS ACTION

CLASS ACTION COMPLAINT FOR
DAMAGES, RESTITUTION AND
INJUNCTIVE and/or DECLARATORY
RELIEF:

- (1) Illegal Wage Deduction and Forfeiture of Vested Wages (Lab.Code §§ 221)
- (2) Failure to Pay Overtime Wages (Lab. Code § 1194)
- (3) Knowing and Wilful Failure to Provide Accurate Itemized Wage Statements (Lab. Code §226)
- (4) Violations of the Unfair Competition Law (Bus. & Prof. Code §§ 17200-17208)

DEMAND FOR JURY TRIAL

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1 Plaintiff LORI RHEA, on behalf of herself and all others similarly situated, complains
2 and alleges as follows.

3 INTRODUCTION

4 1. This case arises out of the illegal deduction of earned wages and/or improper
5 forfeiture of salary, and/or vested vacation pay and/or paid time off (hereinafter "PTO"), to
6 account for partial-day absences of less than four hours. The proposed class includes all salaried-
7 exempt current and former employees of GENERAL ATOMICS in the State of California
8 subject to this forfeiture policy for the proposed "Class Period" and/or "Relevant Time Period"
9 which, unless otherwise specified, is defined as the period of time four years prior to the
10 commencement of this action, continuing into the present and up until the commencement of trial
11 in this action. The policy and practice challenged herein is systematic and continuous, and
12 results in the unlawful deduction of salary wages and/or forfeiture of accrued vacation wages
13 against exempt employees for partial-day time off for intervals of less than four hours in length
14 that is deducted on a converted hourly basis to account for the employee time off. This process
15 was a clearly communicated company policy and actual practice applied uniformly to all exempt
16 employees to make improper deductions from employee accrued and vested "CAL"-time banks,
17 and if none, resulted in a direct illegal and improper deduction of salary wages from employees
18 classified as salaried and exempt from premium overtime pay.

19 2. The proposed class consists of all "salaried-exempt" current and former
20 employees of GENERAL ATOMICS in the State of California who, during the proposed "Class
21 Period" were subject to Defendant's improper and unlawful use of a systematic payroll deduction
22 policy that required such employees to report, code and have deducted, either directly from
23 salaried wages or from vested vacation/ PTO banks increments of less than four (4) hours of
24 converted hourly pay for days in which time off for work periods of less than four (4) hours in a
25 workday were taken by the employees. The use of such partial-day deduction systems for periods
26 of less than four hour partial-day absences in connection with "salaried-exempt" employees in
27 the State of California is illegal under legal precedent and under California law. GENERAL
28 ATOMICS's use of such a payroll policy and practice was not an "isolated" and/or "inadvertent"

1 event, but a company-wide policy applicable to all “salaried-exempt” employees of GENERAL
2 ATOMICS employed in the State of California. The policy was communicated to employees in
3 California by managing agents starting at least in 2009 and continues into the present. Further,
4 GENERAL ATOMICS failed to ever reimburse salaried exempt employees with less than four
5 hour use of CAL-time or for wages deducted (when no CAL-time was available or when the
6 employee failed to code CAL-time for a partial-day absence) and intended the impact to
7 minimize and deplete vacation/PTO banks and/or to diminish wages for those who had
8 insufficient CAL-time banks to “cover” the partial-day absence. As a result, the policy and
9 practice of forfeiture and wage deduction was systematic, illegal, took vested and owed wages
10 away from employees without disciplinary purpose, and undermined Defendant’s classification
11 of said employees as “salaried” and/or “exempt” basis because the policy treats the employees as
12 *de facto* hourly nonexempt employees, irrespective of their work duties, job classification, salary
13 or other means for which exempt status may otherwise apply. As a result, during the time of the
14 policy challenged herein, GENERAL ATOMICS is liable to each current and former employee
15 who was subject to the policy and practice for all deducted actual hourly wages at their respective
16 converted hourly rates and for overtime at the requisite legal rate. Plaintiff RHEA was directly
17 impacted, injured and harmed by Defendant’s policy and practice, and alleges that she repeatedly
18 had deductions from her CAL bank for daily absences of less than four hours, and one or more
19 deductions from her salary when her CAL bank was empty. RHEA also alleges that she worked
20 overtime during some weeks. As a result, RHEA is owed overtime compensation at her
21 converted hourly rate for all of her hours that she was caused or suffered to work, within the
22 Relevant Time Period, or as long as the employer’s illegal partial-day absence policy was in
23 effect.

24 3. Because GENERAL ATOMICS’s policy and practice relating to partial-day
25 absences of less than four hours in length impacted all such classified employees similarly and
26 because the manner in which the policy was administered was done through Defendant’s
27 centralized and automated payroll system, Plaintiff brings this as a class action pursuant to
28 California Code of Civil Procedure Section 382 and under the Unfair Competition Law,

1 California Labor Code sections 201-204, 218, 221, 226, 510-512, and 1194, applicable Wage
2 Orders of the Industrial Welfare Commission (IWC), Title 8 of the California Code of
3 Regulations, section 11040, and pursuant to Business & Professions Code sections 17200, et seq.
4 The proposed class sought to be certified consists of the following:

5 **Plaintiff Class**

6 All Defendant's current and former California-based employees who were (1)
7 deemed "salaried" and/or "exempt" by company records; (2) were subject to
8 Defendant's systematic partial-day payroll policy that required employees to
9 report, code and submit intervals of less than four hour periods for deduction
10 either from their accrued vacation/PTO CAL-Time banks, or to be deducted
11 directly from wages (where insufficient vacation/PTO CAL-Time was available)
12 at the employees' converted hourly wage, as a means to account for the
13 employees' partial time off.

14 4. Pursuant to California Code of Civil Procedure Section 382 and applicable
15 California Rules of Court, Plaintiff also seeks to certify the following Subclasses defined as:

16 (A) **The "Wage Deduction Subclass"**

17 All members of the "Plaintiff Class" who (1) reported, coded and/or submitted intervals
18 of less than four hour increments for vacation, personal time and/or PTO into payroll; (2)
19 who *did not* have sufficient accrued and vested vacation/PTO banks to "cover" the time
20 off; and (3) who had wages deducted directly from their paycheck at their converted
21 hourly rate of pay as a means to account for the time off.

22 (B) **The "CAL Forfeiture Subclass"**

23 All members of the "Plaintiff Class" who (1) reported, coded and/or submitted intervals
24 of less than four hour increments for vacation, personal time or PTO into payroll; (2) who
25 *did* have sufficient accrued and vested CAL banks to "cover" the time off; and (3) who
26 had accrued and vested vacation/PTO wages deducted from their CAL bank at their
27 converted hourly rate of pay as a means to account for the time off.

28 (C) **The "Overtime Subclass"**

All members of the "Plaintiff Class" who worked either in excess of eight (8) hours per
day and/or in excess of forty (40) hours per week and who were not paid overtime
compensation at the statutory overtime rate.

(D) **The "Wage Statement Subclass"**

All members of the "Plaintiff Class" whose pay statements did not accurately record or
reflect all hours the employees were actually caused or suffered to work nor provide
accounting of hours eligible for overtime pay at the requisite overtime rate of pay for the
employee.

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1 (E) The "UCL Subclass"

2 All members of the "Wage Deduction Subclass," the "CAL Forfeiture Subclass," and/or
3 the "Overtime Subclass" who, as a result of Defendant's partial-day payroll policy of
4 deducting for hourly intervals of less than four hours in length, are owed restitution for
 (1) their hourly pay that was deducted; (2) restitution in the form of the reinstatement of
 their vacation/PTO banks; or (3) restitution for unpaid overtime wages.

5 5. Plaintiff alleges that for the entire time that GENERAL ATOMICS utilized its
6 partial-day deduction/forfeiture policy as applied to work absences of less than four hours in
7 length, the company *de facto* destroyed any claim to assert that the employees satisfied any
8 exempt status and is therefore liable for overtime at the requisite rate of pay for each employee,
9 who during the proposed class period, worked overtime hours, but who were not paid for such
10 overtime at the legally requisite rate of pay. Because the deduction was based on the Defendant's
11 actual policy and practice, which was clearly communicated to all employees in California since
12 approximately 2009 and continuing into the present, and because no reimbursement of wages or
13 vested vacation/PTO CAL-Time banks was provided, the company is liable for the entire time
14 the policy was implemented for all hourly wages of the employees subjected to and harmed by
15 the policy, including overtime hours worked at the requisite overtime rate as mandated by IWC
16 Wage Orders. Also, because the policy was implemented automatically through payroll
17 programming and coding for partial-day absences of less than 4 hours in length, it impacted all
18 employees who were deemed "salaried-exempt" in an identical way and such that each person
19 subjected to and impacted by the policy can be ascertained and the amount of the illegal
20 deduction(s) and/or CAL-Time forfeiture can be determined through resort to Defendant's
21 electronic payroll records.

22 6. Based on information and belief, and supported by California Law, Plaintiff
23 alleges that for any eligible pay period during the proposed Class Period during which Defendant
24 had in place a policy of making deductions from salary or vacation/PTO banks for partial-day
25 absences in intervals of less than four hour periods, the employer's conduct waived, abrogated
26 and defied any basis for classifying the employees as "salaried" and/or "exempt" and instead
27 rendered said employees as hourly non-exempt and eligible for overtime wages at applicable
28 overtime rates of pay *irrespective of whether the employees' work duties* satisfied any particular

1 exemption or not. Plaintiff alleges that Defendant's formula for deducting pay and wages was
2 systematic and continuous, and that the policy only resulted in wage loss and did not allow for
3 employees to record overtime hours worked. In fact, Defendant specifically and intentionally
4 failed to document, track or record all hours actually caused or suffered to work and only
5 required recording of hourly, half-day (four hours or more) and/or full day absences to be
6 counted against the employee for a deduction in wages otherwise owed. As a result of said
7 Defendant's failure to document actual hours worked by the proposed class in favor of a policy
8 that would result in reduced wages and/or a reduction in accrued and vested vacation/PTO
9 wages, Plaintiff is entitled to state and will state reasonable estimates of daily, weekly, monthly
10 or yearly overtime as to hours routinely worked in excess of eight (8) per day and/or forty (40)
11 per week. Said estimates will be provided through survey evidence and representative testimony
12 that is statistically reliable and can be extrapolated to the class as a whole.

13 7. As used herein, the term "Plaintiff" means LORI RHEA, who is the named
14 Plaintiff Class representative. Plaintiff is informed and believes, and based thereupon alleges,
15 that she is a typical, common and adequate class representative who has suffered harm in fact as
16 a direct and proximate result of Defendant's partial-day time-off accounting for "salaried" and/or
17 "exempt" classified employees of GENERAL ATOMICS during the proposed Class Period.
18 The term "Plaintiff Class" includes the Plaintiff and all members of the proposed Class and
19 Subclasses. Plaintiff is employed in San Diego County in the State of California and, as of the
20 time of filing the instant Complaint, is an employee of Defendant GENERAL ATOMICS.

21 8. The term "Defendant" refers to GENERAL ATOMICS, including all of its
22 unincorporated divisions operating in the State of California and who use or have used the
23 identical payroll policy and practice that requires or required its "salaried-exempt" employees to
24 record and have deducted increments of less than four hours against either their accrued and
25 vested vacation/PTO banks, or directly against wages, on an hour-by-hour basis, for such
26 employees who do not have sufficient accrued and vested vacation/PTO banks in reserve. All
27 proposed members of the Plaintiff class can be directly and individually ascertained directly from
28 Defendant's payroll records and the use of a specific system-wide coding protocol and

1 centralized automated payroll programming that will identify any day during the last four years
2 wherein an employee had their wages deducted and/or their vacation/PTO banks tapped to cover
3 a period daily time off at an interval of less than a four-hour period. During the proposed Class
4 Period, Plaintiff is informed and believes, and based thereupon alleges, that Defendant
5 knowingly, intentionally and wilfully implemented the partial-day time-off accounting in order to
6 minimize vacation accrual, cause forfeiture of vested and accrued CAL- Time and to deduct
7 wages from "exempt" employees for days that their personal time did not account for a full or
8 half day of time.

9 9. Plaintiff and the proposed class seek just compensation for illegally deducted
10 wages and the forfeiture of accrued and vested vacation and/or PTO wages during the during the
11 Class Period. Further, Plaintiff and the proposed class seek to recover overtime wages for all
12 overtime hours worked during the time period that the policy was implemented and enforced. In
13 the alternative, Plaintiff will seek eligible overtime wages at the requisite overtime rate for all
14 pay periods in her and the proposed Plaintiff Class's employment where the Defendant's policy
15 resulted in a deduction of wages and/or forfeiture of vested and accrued vacation, and for which
16 Plaintiff and the proposed Class in fact worked either in excess of 8 hours per day and/or in
17 excess of 40 hours for the workweek where a less than 4 hour deduction was taken and processed
18 by GENERAL ATOMICS's centralized payroll system.

19 JURISDICTION AND VENUE

20 10. The California Superior Court has jurisdiction in this matter as it arises solely and
21 exclusively under California law and applicable regulations. Further, venue is appropriate based
22 upon the fact that the Defendant's violations of Labor Code §221, et seq., Labor Code §510, et
23 seq., Labor Code §1194, Business & Professions Code sections 17200, et seq., applicable IWC
24 Wage Order(s) and related common law principles arising under the laws of the State of
25 California, in large part occurred in the County of San Diego. Venue is proper in this Judicial
26 district and the County of San Diego because, upon information and belief, Defendant resides in
27 and/or are domiciled in this county and maintains offices and transacts business in this county,
28 and work was performed by members of the class made the subject of this action in the County of

1 San Diego, California. Venue is also proper in San Diego County pursuant to CCP §395(b)
2 and/or CCP §395.5 in that Plaintiff was employed in said county and the county is the place where
3 the harm occurred. Lastly, the unlawful acts alleged herein have a direct effect on Plaintiff and
4 those similarly situated within the State of California and within San Diego County, as well as
5 other counties located throughout California.

6 11. On information and belief, the California Superior Court has primary and original
7 jurisdiction in this matter because there is no federal question at issue as the issues herein are
8 based solely on California statutes and law including the California Labor Code, Industrial
9 Welfare Commission Wage Orders, Code of Civil Procedure, Rules of Court, and Business and
10 Professions Code. Based on records maintained by the Defendant and by the California
11 Secretary of State, Defendant GENERAL ATOMICS is a California Corporation with its
12 Principal Place of Business (PPB) and corporate headquarters (HQ) maintained in San Diego,
13 California throughout the proposed class period. Thus, the Defendant and the Plaintiff are
14 residents and domiciliary of the State of California and no diversity jurisdiction exists sufficient
15 for any removal of action to federal district court, either under 28 U.S.C. §1332 or §1332(d)
16 pursuant to the Class Action Fairness Act ("CAFA"). Plaintiff is also informed and believes,
17 and based thereupon alleges, that this matter arises as a local case or controversy for which
18 CAFA jurisdiction does not exist.

19 THE PARTIES

20 12. The Plaintiff, LORI RHEA, is a resident and citizen of the State of California,
21 County of San Diego, and was and remains an employee of the Defendant GENERAL
22 ATOMICS classified by the employer as "salaried - exempt." Each of the proposed members of
23 the Plaintiff Class is identifiable and similarly situated persons who are current and/or former
24 employees of the Defendant in State of California and who were subject to the partial-day payroll
25 policy accounting system defined and alleged herein. Plaintiff RHEA, individually, has suffered
26 direct damage from Defendant's policy by virtue of the loss of wages earned, and/or the
27 forfeiture of accrued and vested vacation/PTO time during the tenure of her employment with
28 the Defendant, as well as unpaid overtime premium pay. Although Defendant's automated

1 payroll records, to the extent they exist, will confirm a more precise amount, Plaintiff reasonably
2 estimates that over 15-20 hours of wages were either illegally deducted or were improperly
3 forfeited from her CAL-Time vacation/PTO wages as a result of Defendant's policy and practice
4 related to the recording of hourly increments of time less than four hours in length for partial-day
5 leave, personal and/or vacation time. Despite the negative accounting against Plaintiff and the
6 proposed class for partial time-off accounting for less than four hour periods, Defendant did not
7 track, record or accurately monitor all hours caused and suffered to work so as to either not
8 engage in its deduction/PTO forfeiture scheme, or to offset partial-day time-off accounting with
9 other hours employees worked during impacted workweeks. In other words, GENERAL
10 ATOMICS used the policy only to reduce wages and not to pay for additional workday or
11 workweek hours to its exempt or salaried employee staff with overtime wages or to adjust
12 vacation accrual and vesting based on actual hours worked. Once GENERAL ATOMICS's
13 conduct required tracking of partial-day (less than four hour) increments based on the exempt
14 employees' converted hourly wage, the Defendant lost its ability to raise, and will be estopped
15 from raising, exempt status as a defense to the presumed requirement to pay overtime wages for
16 overtime worked. In December 2011, and at several times since 2009, Plaintiff raised the issue
17 of partial-day absence accounting to GENERAL ATOMICS's supervisors and managing agents
18 and questioned its legality and propriety for employees the company otherwise classified as
19 "exempt." At each instance, GENERAL ATOMICS reinforced and clearly articulated that the
20 partial-day absence deduction for less than four hours would continue to be charged on an hourly
21 basis against all "salary exempt" employees, in violation of California law. As a result,
22 GENERAL ATOMICS is on notice and knows that its conduct is illegal and improper, and that
23 the hourly accounting of partial-day absences nullifies its claim that employees subject to and
24 harmed by the policy are "salaried-exempt."

25 13. GENERAL ATOMICS is a California Corporation with its corporate
26 Headquarters and principal place of business located in the State of California and in the County
27 of San Diego, and is the employer of the Plaintiff and the members of Class during the Class
28 Period. GENERAL ATOMICS is a defense contractor with many unincorporated divisions in the

1 State of California that employees many hundreds of employees. Plaintiff is informed and
2 believes, and based thereupon alleges, that Defendant implemented the challenged partial-day
3 absence policy at some time within four years prior to the commencement of this action.

4 14. Plaintiff is ignorant of the true names, capacities, relationships and extent of
5 participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through
6 100, inclusive, but on information and belief alleges that said Defendants are legally responsible
7 for the payment of earned vacation pay and/or PTO, failure to pay overtime wages at overtime
8 rates for requisite hours worked during workweeks impacted by Defendant's partial-day time-off
9 accounting policy, itemized wage statement penalties, and therefore sues these Defendants by
10 such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities
11 of the DOE Defendants when ascertained and as permitted by California Code of Civil Procedure
12 section 474.

13 GENERAL ALLEGATIONS

14 15. During all, or a portion, of the Class Period, Plaintiff and each member of the
15 Class were employed by Defendant in the State of California. All members of the proposed
16 "Plaintiff Class" and subclasses can be readily deduced, ascertained and determined from
17 reference to all those who ever entered the appropriate payroll code, i.e., "1230, 1240 or 1250,"
18 to account for a less than half day (less than four hour) partial-day absence submission for
19 "salaried exempt" employees in California. The code or similar designation was routed to
20 GENERAL ATOMICS's centralized and automated payroll processing center and was used to
21 either deduct hours from Plaintiff and the Plaintiff Class's CAL-Time vacation/PTO banks, or, if
22 not vested time available, to directly deduct from the employees wages on a converted hourly
23 basis for the amount of time of the partial-day absence reported by the employee. Generally,
24 Plaintiff and the proposed class would be required to report at least 40 hours per workweek to
25 payroll, even if actual work time exceeded 40 hours in a given workweek. The information was
26 transmitted to payroll, and as long as at least 40 hours for each week was reported, Plaintiff and
27 the proposed Plaintiff class received a salary without deduction or improper use of vested CAL
28 bank time. On the other hand, based on the Defendants' policy and practice, if in any workweek

1 the employee reported working something less than 40 hours in a workweek (or pay period), the
2 company instructed and required the employee to specifically use a partial-day absence code to
3 make up the difference. So, for example, if Plaintiff missed a couple of hours on one workday
4 for a doctor's appointment and reported only 38 hours for the workweek, GENERAL
5 ATOMICS's payroll policy required her to report the two hour period as a partial-day absence
6 and code it specifically in order to have the time deducted, hour-by-hour, from her vested CAL-
7 time vacation/PTO bank. If the Plaintiff either forgot to code the partial-day deduction in
8 accordance with GENERAL ATOMICS's policy or if she had insufficient vested CAL-time in
9 her bank, then her pay for the pay period her paycheck would be deducted (and was deducted) on
10 any hour-by hour basis at her converted hourly rate. Plaintiff and other class members would use
11 the codes for doctor's appointments, dental appointments, family reasons, child care, or child
12 appointments or personal reasons for anywhere from approximately 30 minutes to 3 or more
13 hours, but always less than 4 hours. The code was specific and readily traceable to all
14 employees subject to the policy for the date it occurred and the amount of time-off taken. The
15 company would then either charge the amount of time, on a converted hourly basis, against
16 vested vacation/PTO banks, or CAL time, or, if none available, simply deduct the amount, on an
17 hourly basis from the employee's salary. So, for example, if the employee reported two hours
18 time-off for a doctor's appointment and had accrued/vested vacation/PTO, then two hours would
19 be charged against his or her bank at their converted hourly rate. If, on the other hand, the
20 employee had not vested/accrued vacation/PTO, the employee's paycheck would be deducted at
21 their converted hourly rate to reflect a two-hour shortfall in their work time. GENERAL
22 ATOMICS did nothing to allow for employees to record off-set time, such as working ten hours
23 the next workday to make up for the partial-day time-off accounting policy. GENERAL
24 ATOMICS was also expressly advised that the policy for less than four-hour partial-day absence
25 accounting was illegal and improper by Plaintiff and others starting at least in 2009 and most
26 recently in December 2011. GENERAL ATOMICS has taken no action to reimburse deducted
27 wages or to reinstate illegally forfeited vacation time.

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1 16. Plaintiff and each member of the proposed "Plaintiff Class" was subjected to
2 Defendant's continuous, systematic and ongoing payroll practices, that specifically included the
3 requirement to report, code and submit partial-day hours in less than four (4) hour increments as
4 a means to deduct wages and/or withdraw accrued and vested vacation/PTO to account for the
5 time off. Plaintiff is informed and believes that the policy is known in the company as "partial-
6 day time-off accounting" and is applicable to all GENERAL ATOMICS employees in California
7 who are deemed or classified as "exempt" or "salaried." Through this systemic and uniform
8 policy, GENERAL ATOMIC deducted wages on an hourly basis for employees, or charged the
9 partial-day time-off against the employees' vacation/PTO vested bank. The policy was clearly
10 communicated to employees and through a coding mechanism specifically designed to
11 implement the practice. The policy was not sporadic, inadvertent or isolated, but was done
12 intentionally to limit vacation accrual and to dock pay for those "salaried exempt" employees
13 without sufficient CAL-Time vacation/PTO banks to account for the partial-day absence (or who
14 failed to report the minimum 40 hours per work week).

15 17. Each Class member who ended their employment during the Class Period, but
16 was not paid the above due PTO and/or vacation time upon the termination of their employment
17 as required by Labor Code sections 201-203, is entitled to penalties as provided by California
18 Labor Code section 203 because Defendant's actions were wilful and knowingly in violation of
19 law. Further, such employees, whether current or former, are entitled to be reimbursed for their
20 CAL-Time banks for vested and accrued vacation/PTO time that was forfeited in periods of less
21 than four hours per day to account for a partial-day absence, as this constituted an illegal
22 deduction under California Labor Code Section 221, and/or are entitled to back wages as
23 restitution pursuant to California Business & Professions Code Section 17200, et seq.

24 **CLASS ACTION ALLEGATIONS**

25 18. Pursuant to California Code of Civil Procedure Section 382 and applicable
26 California Rules of Court, Plaintiff also seeks to certify the following subclasses defined as
27 follows:

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1 (A) The “Wage Deduction Subclass”

2 All members of the “Plaintiff Class” who (1) reported, coded and/or submitted intervals
3 of less than four hour increments for vacation, personal time and/or PTO into payroll; (2)
4 who *did not* have sufficient accrued and vested vacation/PTO banks to “cover” the time
 off; and (3) who had wages deducted directly from their paycheck at their converted
 hourly rate of pay as a means to account for the time off.

5 (B) The “CAL Forfeiture Subclass”

6 All members of the “Plaintiff Class” who (1) reported, coded and/or submitted intervals
7 of less than four hour increments for vacation, personal time or PTO into payroll; (2) who
8 *did* have sufficient accrued and vested vacation/PTO banks to “cover” the time off; and
 (3) who had accrued and vested vacation/PTO wages deducted from their bank at their
 converted hourly rate of pay as a means to account for the time off.

9 (C) The “Overtime Subclass”

10 All members of the “Plaintiff Class” who worked either in excess of eight (8) hours per
11 day and/or in excess of forty (40) hours per week and who were not paid overtime
 compensation at the statutory overtime rate.

12 (D) The “Wage Statement Subclass”

13 All members of the “Plaintiff Class” whose pay statements did not accurately record or
14 reflect all hours the employees were actually caused or suffered to work nor provide
 accounting of hours eligible for overtime pay at the requisite overtime rate of pay for the
 employee.

15 (E) The “UCL Subclass”

16 All members of the “Wage Deduction Subclass” the “CAL Forfeiture Subclass” and/or
17 the “Overtime Subclass” who, as a result of Defendant’s partial-day payroll policy of
18 deducting for hourly intervals of less than four hours in length are owed restitution for (1)
19 their hourly pay that was deducted; (2) restitution in the form of the reinstatement of their
 vacation/PTO banks; or (3) restitution for unpaid overtime wages for applicable
 workweeks.

20 19. Plaintiff reserves the right under to amend or modify the Class description with
21 greater specificity or further division into subclasses or limitation to particular issues as
22 determined during certification discovery.

23 20. This action has been brought and may be maintained as a class action pursuant to
24 California Code of Civil Procedure Section 382 because there is a well-defined common interest
25 of many persons and it is impractical to bring them all before the court.

26 21. **Ascertainable Class:** The proposed class and each subclass are ascertainable in
27 that their members can be identified and located using information contained in Defendant’s
28 payroll and personnel records. Indeed, all workweeks, payroll data, individual addresses and

1 contact data are all readily maintained and required to be maintained by the Defendant pursuant
2 to applicable law and regulation relating to record keeping of employers.

3 22. **Numerosity:** The potential quantity of members of the Class and Subclasses as
4 defined is so numerous that joinder of all members would be unfeasible and impractical. The
5 disposition of their claims through this class action will benefit both the parties and this Court.
6 The quantity of members of the Class and Subclasses is unknown to Plaintiff at this time,
7 however, it is estimated that each the Class and Subclasses number is in excess of 300
8 individuals. The precise quantity and identity of such membership is readily ascertainable via
9 inspection of Defendant's payroll and accounting records.

10 23. **Typicality:** The claims of Plaintiff RHEA for illegally deducted wages and
11 forfeited CAL-Time from her vacation/PTO banks, her overtime wages, non-compliant and
12 inaccurate wage statements, restitution and, interest, and attorneys' fees are typical of the claims
13 of all members of the Class and Subclasses mentioned herein because all members of the Class
14 and Subclasses sustained similar injuries and damages arising out of Defendant's common course
15 of conduct in violation of law and the injuries and damages of all members of the Class and
16 Subclasses were caused by Defendant's wrongful conduct in violation of law, as alleged herein.

17 24. **Adequacy:** Plaintiff RHEA is an adequate representative of the Class and
18 Subclasses herein, will fairly protect the interests of the members of the Class and Subclasses,
19 has no interests antagonistic to the members of the Class and Subclasses and will vigorously
20 pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of
21 this type. Class Counsel are competent and experienced in litigating large employment law class
22 actions. Proposed Class Counsel exclusively handles class action litigation and primarily focuses
23 on employee rights.

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

27 a. This case involves a large corporate Defendant and a sufficient numerous
28 group of individual Class Members with many relatively small claims and common issues of law

1 and fact;

2 b. If each individual member of each of the Class and Subclasses was
3 required to file an individual lawsuit, the large corporate Defendant would necessarily gain an
4 unconscionable advantage because Defendant would be able to exploit and overwhelm the
5 limited resources of each individual member of the Class and Subclasses with Defendant's vastly
6 superior financial and legal resources;

7 c. Requiring each individual member of each of the Class and Subclasses to
8 pursue an individual remedy would also discourage the assertion of lawful claims by the
9 members of the Class and Subclasses who would be disinclined to pursue an action against
10 Defendant because of an appreciable and justifiable fear of retaliation and permanent damage to
11 their lives, careers and well-being;

12 d. Proof of a common business practice or factual pattern, of which the
13 members of the Class and Subclasses experienced, is representative of the Class and Subclasses
14 herein and will establish the right of each of the members of the Class and Subclasses to recover
15 on the causes of action alleged herein;

16 e. The prosecution of separate actions by the individual members of the
17 Class and Subclasses, even if possible, would create a substantial risk of inconsistent or varying
18 verdicts or adjudications with respect to the individual members of the Class and Subclasses
19 against Defendant; and which would establish potentially incompatible standards of conduct for
20 Defendant; and/or legal determinations with respect to individual members of the Class and
21 Subclasses which would, as a practical matter, be dispositive of the interest of the other members
22 of the Class and Subclasses who are not parties to the adjudications or which would substantially
23 impair or impede the ability of the members of the Class and Subclasses to protect their interests;
24 and

25 f. The claims of the individual members of the Class and Subclasses are not
26 sufficiently large to warrant vigorous individual prosecution considering all of the concomitant
27 costs and expenses attending thereto.

28 g. Furthermore, as the damages suffered by each individual member of the

1 class may be relatively small, the expenses and burden of individual litigation would make it
2 difficult or impossible for individual members of the class to redress the wrongs done to them,
3 while an important public interest will be served by addressing the matter as a class action.

4 h. The cost to the court system of adjudication of such individualized
5 litigation would be substantial. Individualized litigation would also present the potential for
6 inconsistent or contradictory judgment.

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

11 26. **Existence and Predominance of Common Questions of Fact and Law:** There
12 are common questions of law and fact as to the members of the Class and Subclasses which
13 predominate over questions affecting only individual members of the Class and Subclasses
14 including, without limitation:

15 a. Whether the Defendant's Partial-day absence policy violated law and
16 caused illegal deductions of wages against Plaintiff and proposed Class Members;

17 b. Whether the Defendant's Partial-day absence policy caused the Defendant
18 to nullify any defense of exempt status by *de facto* treating salaried exempt employees as hourly
19 employees and, thereby making the employees eligible for overtime compensation as the
20 requisite overtime rate;

21 c. Whether the Class Members were improperly mis-classified as "salaried
22 exempt" by Defendant by subjecting the employees to a company wide and systematic payroll
23 policy of deducting CAL-time vacation/PTO banks or directly from wages for partial-day
24 absences of less than four (4) hours in length;

25 e. The number of hours per week and per day Class Members are expected to
26 work and were not reimbursed for partial-day wage deductions and/or CAL-Time vacation/PTO
27 forfeiture;

28 f. Whether Defendant is liable under Labor Code Section 221 for illegally

1 deducting from wages and/or causing illegal forfeiture of vested and accrued CAL-Time due to
2 the partial-day absence accounting and payroll deduction policy and practice;

3 g. Whether Defendant is liable under Labor Code Sections 510, 1194 and
4 applicable IWC Wage Orders for failure to pay hourly overtime wages at the requisite legal rate
5 by treating its “salaried exempt” employees as *de facto* hourly nonexempt employees due to the
6 partial-day absence accounting and payroll deduction policy and practice that was not isolated or
7 inadvertent;

8 h. Whether Defendant knowingly and intentionally violated state and federal
9 laws and regulations by failing to reimburse employees for overtime and/or to account for all
10 hours actually caused or suffered to work in a accurate and timely manner;

11 i. Whether Defendant failed to keep adequate records for the members of the
12 Wage Statement Subclass pursuant to Labor Code 226(a) by failing to track and record all hours
13 its employees were actually caused or suffered to work, including overtime hours during the time
14 of the practice/policy (and the consequence for such statutory violations if Defendant did not);

15 j. Whether Defendant’s conduct constitutes unfair competition within the
16 meaning of Business and Professions Code sections 17200 and 17203;

17 k. Whether the members of the Class and Subclasses are entitled to
18 injunctive and/or declaratory relief;

19 l. Whether the members of the Class and Subclasses are entitled to
20 restitution;

21 m. Whether Defendant is liable for pre-judgment interest;

22 n. Whether Defendant is liable for attorneys' fees and costs; and

23 o. Whether Defendant is liable for penalties.

24 27. **Manageability of Class and Common Proof:** The nature of this action and the
25 nature of laws available to Plaintiff make use of the class action format a particularly efficient
26 and appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein. Specifically,
27 the primary class turns upon Defendant’s own uniform, systematic practice of classifying all
28 affected job positions as “salaried exempt” without any individual scrutiny of tasks and duties is

1 in compliance with Labor Code sections 221, 510, 1194 and/or applicable IWC Wage Orders,
2 including the legal presumptions against employees being deemed "exempt" from overtime
3 payment requirements. Therefore, the propriety of the classification scheme applicable to all
4 employees who were subjected to Defendant's partial-day absence policy as described herein is a
5 predominant question of fact that is easily cable of being determined in a single adjudication,
6 while non-predominating questions as to individual damages and restitution may be discovered
7 through manageable devices of common proof such as statistical random sampling, survey
8 evidence based on scientific principles, representative testimony, documentary evidence and
9 common practices/procedures of the Defendant in treating each of the class members as a
10 homogeneous group in the payment of their wages. In this circumstance, each employee and the
11 exact amount of hours deducted or forfeited are readily accessible due to the Defendant's use on
12 a single, common and centralized payroll processing system that was used and communicated to
13 employees to account for partial-day absences of less than four (4) hours in length. If the policy
14 is illegal, unfair, improper or in violation of State standards, then each of the derivative Subclass
15 claims and damages, if any, suffered by each member is capable of being shown by several
16 means of common proof and limited by individual showings of entitlement to recovery that can
17 be professionally administered and tailored to the facts and circumstances of the case.

18 28. Plaintiff is unaware of any difficulties that are likely to be encountered in the
19 management of this action that would preclude its maintenance as a class action. No individual
20 questions are necessary to resolve the case and the exact amount of damages for each affected
21 class member can be determined through review of Defendant's centralized, automated and
22 electronic payroll processing systems and records.

23 CAUSES OF ACTION

24 **FIRST CAUSE OF ACTION** 25 **ILLEGAL WAGE DEDUCTION and/or FORFEITURE OF VESTED VACATION** 26 **WAGES (Labor Code §§221 et seq.)** **(Plaintiff and each Class member against each Defendant)**

27 29. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.
28 30. Defendant provided Plaintiff and the Class members with vacation and PTO

1 banks, accrued on a regular basis, as a term of employment. The was commonly referred to as
2 the CAL-Time vacation/PTO bank.

3 31. At all times relevant herein, and for a period within the four years prior
4 to the commencement of this action, Defendant implemented a company-wide, uniform and
5 systematic payroll practice and policy that required all "salaried exempt" employees in the State
6 of California to record, submit and to code partial-day absences of less than four (4) hours in
7 length to be deducted either against the employees CAL-Time vacation/PTO bank, or if none
8 available, to have a deduction made directly against their pay on a converted hourly basis for the
9 partial-day absence. The deduction was automatic and systematic, processed by payroll and
10 calculated on employee pay stub for the pay period. This policy resulted in many thousands of
11 dollars of losses for employees in otherwise due, owing and payable wages. Subject to further
12 investigation and discovery, the policy specifically worked as follows: During all, or a portion,
13 of the Class Period, Plaintiff and each member of the Class were employed by Defendant in the
14 State of California. All members of the proposed "Plaintiff Class" and subclasses can be readily
15 deduced, ascertained and determined from reference to all those who ever entered the appropriate
16 payroll code, i.e., "1230, 1240 or 1250," to account for a less than half day (less than four hours)
17 partial-day absence submission for "salaried exempt" employees in California. The code or
18 similar designation was routed to GENERAL ATOMICS's centralized and automated payroll
19 processing center and was used to either deduct hours from Plaintiff and the Plaintiff Class's
20 CAL-Time vacation/PTO banks, or, if no vested time available (or if the employee forgot to enter
21 the code), the company directly deducted from the employee's wages on a converted hourly basis
22 for the amount of time of the partial-day absence reported by the employee on at least an hour-
23 by-hour basis and perhaps in increments of less than an hour. Generally, Plaintiff and the
24 proposed class would be required to report at least 40 hours per workweek to payroll, even if
25 actual work time exceeded 40 hours in a given workweek. Because the employees were salaried,
26 many of the proposed class members logged 8 hour workdays even if the workday was actually
27 longer. The information was transmitted to payroll, and as long as at least 40 hours for each
28 week was reported, Plaintiff and the proposed Plaintiff class received their salary without

1 deduction or improper use of vested CAL bank time. On the other hand, based on the
2 Defendant's policy and practice, if in any workweek the employee reported working something
3 less than 40 hours in a workweek (or pay period), the company instructed and required the
4 employee to specifically use a partial-day absence code to make up the difference. So, for
5 example, if plaintiff missed a couple of hours on one workday for a doctor's appointment and
6 reported only 38 hours for the workweek, GENERAL ATOMICS's payroll policy required her to
7 report the two hour period as a partial-day absence and code it specifically in order to have the
8 time deducted, hour-by-hour, from her vested CAL-time vacation/PTO bank. If the Plaintiff
9 either forgot to code the partial-day deduction in accordance with GENERAL ATOMICS's
10 policy or if she had insufficient vested CAL-time in her bank, then her pay for the pay period
11 would be deducted (and was deducted) on any hour-by hour basis at her converted hourly rate.
12 Plaintiff and other class members would use the codes for doctor's appointments, dental
13 appointments, family reasons, child care, or child appointments or personal reasons for anywhere
14 from approximately 30 minutes to 3 or more hours, but always less than 4 hours. The code was
15 specific and readily traceable to all employees subject to the policy for the date it occurred and
16 the amount of time-off taken. Furthermore, in any week where less than 40 hours was recorded,
17 GENERAL ATOMICS would cause a deduction to be made, first taking employee Cal-time and
18 if none, then deducting wages directly. The company would then either charge the amount of
19 time, on a converted hourly basis, against vested vacation/PTO banks, or CAL time, or, if none
20 available, simply deduct the amount, on an hourly basis from the employee's salary. So, for
21 example, if the employee reported two hours time-off for a doctor's appointment and had
22 accrued/vested vacation/PTO, then two hours would be charged against his or her bank at their
23 converted hourly rate. If, on the other hand, the employee had not vested/accrued vacation/PTO,
24 the employee's paycheck would be deducted at their converted hourly rate to reflect a two-hour
25 shortfall in their work time. GENERAL ATOMICS did nothing to allow for employees to record
26 off-set time, such as working ten hours the next workday to make up for the partial-day time-off
27 accounting policy. GENERAL ATOMICS was also expressly advised that the policy for less
28 than four-hour partial-day absence accounting was illegal and improper by Plaintiff and others

1 starting at least in 2009 and most recently in December 2011. GENERAL ATOMICS has taken
2 no action to reimburse deducted wages or to reinstate illegally forfeited vacation time.

3 32. Plaintiff is informed and believes, and base thereupon alleges, that the use of a
4 partial-day absence policy in the manner described herein for period of partial-day absences of
5 less than four (4) hours in length is illegal, improper and violates employee rights by acting as a
6 one way deduction and/or forfeiture of wages for salaried employees, while simultaneously
7 failing to reimburse or re-credit the employee for hours worked during the pay period to off-set
8 the impact of the policy. The result of the policy is to minimize vacation accrual, forfeit vested
9 vacation hours, and/or to improperly deduct from employee pay wages earned on a salary basis
10 test. The policy is illegal because it undermines any good faith claim to treating the employees as
11 "salaried exempt" by *de facto* treating the employees, to their detriment only, as hourly non-
12 exempt employees and such practices violate applicable state and federal regulations. The result
13 of GENERAL ATOMICS's policy is to have waived, nullified and/or be estopped from asserting
14 that the proposed Plaintiff class of employees was exempt from overtime, and the company, as a
15 result of the practice, is liable for all hours the employees were actually caused and suffered to
16 work, including overtime at the requisite rate of converted hourly pay, as required by Labor Code
17 Sections 510, 1194 and applicable IWC Wage Orders that require such payments.

18 33. As a direct, proximate and legal cause of Defendant's unlawful policy and
19 practice, which continues into the present, Plaintiff RHEA has lost hundreds of dollars in wages
20 and/or vested CAL-Time from her vacation/PTO bank. Plaintiff and members of the proposed
21 Plaintiff Class have lost thousands of dollars in illegally deducted wages or have forfeited
22 lawfully vested and accrued CAL-Time from their vacation/PTO banks. Plaintiff is informed and
23 believes, and based thereupon alleges, that Defendant has failed to reimburse employees for
24 deducted or forfeited wages, even when the company knew that partial-day absence of less than
25 four (4) hours had been compensated by additional hours worked during the pay period.

26 34. Defendant was aware that its use of the policy was automatic and specifically
27 designated coding to its California-based "salaried exempt" employees to track partial-day
28 absences of less than four (4) hours in length so that the illegal deduction and/or charge against

1 CAL-Time could be made. This made the policy fully automated, systematic and uniform to all
2 similarly situated employees subject to the policy and harmed by it. The policy was not isolated
3 or inadvertent, but knowing and willful way to lessen employee wages and minimize CAL-Time
4 accrual. As late as December 2011, Plaintiff raised the issue with managing agents of
5 GENERAL ATOMICS and the policy was reaffirmed and no action was taken to cease the actual
6 practice, or to reimburse illegally deducted wages. Plaintiff seeks a preliminary and/or
7 permanent injunction against Defendant to cease its illegal practices.

8 **SECOND CAUSE OF ACTION**
9 **FAILURE TO PAY OVERTIME WAGES TO EMPLOYEES AT THE REQUISITE**
10 **OVERTIME RATE (Labor Code §§510 & 1194)**
11 **(Plaintiff and each Class member against each Defendant)**

12 35. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

13 36. Plaintiff and/or the members of the proposed Plaintiff Class who were subject
14 to GENERAL ATOMICS's partial-day absence payroll deduction policy, were, in effect, being
15 treated as hourly nonexempt employees, but only for the purpose of either illegally deducting
16 from their salary pay, or requiring the unnecessary use and forfeiture of vested and accrued CAL-
17 Time from their personal vacation/PTO banks. The employees were not afforded the benefit of
18 additional pay for hours that exceeded the absence, or overtime pay, when the employee worked
19 in excess of eight (8) hours per day and/or in excess of forty (40) hours in a given workweek.

20 37. Plaintiff is informed and believes, and based thereupon alleges, that under
21 California law, all employees are presumed to be hourly nonexempt employees and that, as a
22 result, certain minimum legal protections apply, including, without limitation, to be paid
23 overtime for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per
24 week at the legally requisite converted hourly rate of pay, which is generally 1.5x hourly pay rate
25 for each overtime hour worked. Defendant, as an employer, may raise an affirmative defense of
26 "salary exempt" status, so long as the employer can show that the employee was indeed paid on a
27 salary basis without wage reduction for the number of hours worked.

28 38. Plaintiff, an employee of GENERAL DYNAMICS in California, was classified as
a salaried-exempt employee and was to be paid on a salary basis. Such pay may not be subject to

1 reduction because of variations in the quality or the quantity of the work performed. However, by
2 implementing the partial-day absence policy requiring employees to report work absences of less
3 than four (4) hours in length, Plaintiff alleges that the Defendant demonstrated a legal intent to
4 not treat Plaintiff and other similarly situated employees subject to the policy as “salaried-
5 exempt” employees, but rather intended to treat them as hourly non-exempt employees for all
6 purposes.

7 39. Plaintiff alleges that during some weeks, she worked overtime hours in excess of
8 40 hours per week but was subject to having her salary and CAL bank deducted for partial day
9 absences of less than four (4) hours. By her observations, virtually all employees who were
10 subject to the policy did likewise, even though none of the employees were reimbursed for
11 illegally deducted work time from the policy, nor were they paid for additional time, including
12 overtime for hours in excess of eight (8) per day or in excess of forty (40) per week. As indicated
13 above, the partial-day absence policy was a one way policy; it was used by GENERAL
14 ATOMICS to deviate away from paying Plaintiff and other similarly situated employees a pre-
15 determined salary amount and to lower the amount of wages for its “salaried exempt” employees.

16 40. Despite Plaintiff working overtime hours, GENERAL ATOMICS never paid
17 overtime wages for the excess hours. As far as Plaintiff is aware, none of the similarly-situated
18 employees were ever paid premium overtime wages for overtime hours worked..

19 41. As a direct, proximate and legal result of Defendant’s policy and practice,
20 Plaintiff and the proposed Overtime Subclass are owed back wages at the requisite overtime rate
21 for all hours worked in excess of eight (8) hours per workday and/or for hours in excess of forty
22 (40) hours per workweek during their employment during the time of the existence of the policy,
23 not to exceed four years prior to the commencement of this action. These damages are capable of
24 being determined through use of sampling, Defendant database information, and lawful use of
25 reasonable estimates of overtime hours worked since the Defendant failed to accurately record
26 and track all hours that Plaintiff and the proposed Overtime Subclass worked.

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1 aforementioned policy, and for unpaid overtime wages that are owed to Plaintiff and the class for
2 Defendant's use of a policy and practice that defeats the "salary" test and estops GENERAL
3 ATOMICS from asserting exempt status for Plaintiff and the proposed Class. Plaintiff seeks the
4 deducted and unpaid wages as restitution for herself and for each member of the proposed
5 Classes and Subclasses for the period of at least four (4) years prior to filing of this complaint,
6 according to proof.

7 47. Plaintiff is informed and believes, and based thereupon alleges, that Defendant's
8 partial-day absence payroll policy of deducting pay or forfeiting CAL-Time for supposedly
9 "salaried-exempt" employees in increments of less than four (4) hours in length constitutes an
10 unfair, illegal and deceptive business practice for which, Plaintiff has suffered actual damages
11 and harm, and may, therefore seek restitution, injunctive and/or declaratory relief under
12 California's Unfair Competition Law ("UCL") codified as California Business & Professions
13 Code Section 17200, et seq. Specifically, Plaintiff alleges that Defendant GENERAL ATOMICS
14 and DOES 1-100, inclusive, each have violated California Labor Code Section 221, 510, 1194
15 and applicable IWC Wage Orders, which are codified under the California Code of Regulations
16 and have the force of law. These statutes, regulations and Wage Orders are the predicate for
17 which relief under the UCL may be sought.

18 48. This cause of action is brought as a cumulative remedy as provided in Business
19 and Professions Code section 17205, and is intended as an alternative remedy for restitution for
20 each Plaintiff and Class member for the time period, or any portion thereof, commencing within
21 four (4) years prior to the filing of this complaint, and as the primary remedy for Plaintiff and the
22 Class members for the time period of the fourth year prior to the filing of this complaint, as such
23 one year time period exceeds the statute of limitations on statutory wage and penalty claims.

24 49. As a direct, proximate and legal result of the Defendant's unlawful and unfair
25 business practice described above, Plaintiff and each Class member has suffered damages,
26 illegally deducted and/or forfeited wages and unpaid overtime wages at the legally requisite
27 amount. By virtue of Defendant's conduct, Plaintiff and the proposed Plaintiff class are entitled
28 to restitution in an amount according to proof.

1 provide employees with accurate itemized to pay statements showing all hours actually worked,
2 overtime wages at the overtime rate, where applicable, and failing to reimburse employees for
3 unlawfully deducted and/or forfeited wages as pled in the Third Cause of Action, not to exceed
4 \$4,000 per employee, in an amount according to proof;

5 **As to the Fourth Cause of Action:**

6 5. That the Court find, determine and declare that Defendant's partial-day absence
7 payroll policy for partial-day absences of less than four (4) hours in length as applied to
8 employees classified as "salaried-exempt" is an unfair, illegal and unlawful business practice as
9 applied to employees and that judgment be entered against Defendant for payment of restitution
10 to Plaintiff and the proposed Plaintiff Class for violation of Business and Professions Code
11 sections 17200, *et seq.*, as pled in the Fourth Cause of Action, in an amount according to proof;

12 6. That the Defendant be ordered and enjoined to pay restitution to each Class
13 member due to its unlawful and unfair competition, including disgorgement of its wrongfully
14 obtained profits, wrongfully deducted, forfeited and/or withheld wages in an amount according to
15 proof, and interest thereon pursuant to Business and Professions Code sections 17203 and 17204,
16 on the Fourth Cause of Action;

17 7. That Defendant be enjoined from further acts of unfair competition and
18 specifically be permanently ordered to cease and desist its practice of applying partial-day absence
19 deduction/forfeitures for time periods of less than four (4) hours against "exempt" employees;

20 **As to All Causes of Action:**

21 8. For reasonable attorneys' fees, interest, and costs of suit pursuant to statute,
22 including but not limited to, Labor Code §1194 and Code of Civil Procedure § 1021.5;

23 9. For the Court to determine and create the appropriate remedy to compensate each
24 Plaintiff and Class member as required to promote fairness and justice, including but not limited
25 to establishing procedures for compensation, and fluid recovery if appropriate;

26 10. For prejudgment interest, in an amount according to proof on fixed, certain and
27 ascertainable damages as demonstrated from Defendant's electronic payroll records; and

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11. For any other equitable relief as the court deems just and proper.

**COHELAN KHOURY & SINGER
STEPHEN DANZ & ASSOCIATES**

Dated: January 10, 2012

By: Michael D. Singer
Michael D. Singer, Esq.
Attorneys for Plaintiff LORI RHEA
and others similarly situated.

DEMAND FOR JURY TRIAL

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

**COHELAN KHOURY & SINGER
STEPHEN DANZ & ASSOCIATES**

Dated: January 10, 2012

By: Michael D. Singer
Michael D. Singer, Esq.
Attorneys for Plaintiff LORI RHEA
and others similarly situated.