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LOS ANGELES

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 CELIA ALVAREZ, BENJAMIN
CUISON, BENJAMIN LEONEN and
12 JOSEPH NAVATA on behalf of
themselves and all others similarly
13 situated,

14 Plaintiffs,

15 v.

16
17 THE HYATT REGENCY LONG
BEACH, THE GLOBAL HYATT
18 CORPORATION, THE HYATT
CORPORATION and Does 1-100,

19 Defendants.
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Case No. CV 09-04791-GAF (VBKx)

Assigned to the Honorable Gary A.
Feess - Courtroom #740

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. **FAILURE TO PROVIDE MEAL PERIODS**
2. **FAILURE TO PROVIDE REST PERIODS**
3. **VIOLATION OF LABOR CODE SECTION 203**
4. **VIOLATION OF LABOR CODE SECTION 1197**
5. **VIOLATION OF LABOR CODE SECTION 1198**
6. **VIOLATION OF LABOR CODE SECTION 226**
7. **UNFAIR BUSINESS PRACTICES IN VIOLATION OF B& P CODE 17200, ET SEQ.**

DEMAND FOR JURY TRIAL

1 On behalf of themselves and all others similarly situated, and on behalf of the
2 general public, plaintiffs CELIA ALVAREZ, BENJAMIN CUISON, BENJAMIN
3 LEONEN and JOSEPH NAVATA (“Plaintiffs”), bring this action against defendants
4 HYATT REGENCY LONG BEACH; THE GLOBAL HYATT CORPORATION; THE
5 HYATT CORPORATION; and Does 1 -100, inclusive (collectively “Defendants”), for:
6 back wages, restitution, liquidated damages, penalties, interest, declaratory and
7 injunctive relief, costs and attorneys’ fees resulting from Defendants’ unlawful conduct
8 and unfair business practices, and as grounds therefor allege:

9 **INTRODUCTION**

10 1. Plaintiffs CELIA ALVAREZ, BENJAMIN CUISON and BENJAMIN
11 LEONEN are current employees of Defendants who are classified as nonexempt under
12 the Industrial Welfare Commission (“IWC”) Wage Orders and are paid on an hourly
13 basis. All three are residents of California. Ms. Alvarez has worked as a “housekeeper”
14 for Defendants since 1990. Mr. Cuison has worked as a “houseman” for Defendants
15 since 1996. Mr. Leonen has worked as a “line cook” for defendants since approximately
16 2002.

17 2. Plaintiff JOSEPH NAVATA is a former employee of Defendants and is
18 classified as nonexempt under the Industrial Welfare Commission (“IWC”) Wage Orders
19 and was paid on an hourly basis. Mr. Navata worked for defendants as a “steward” from
20 1996 to May 2009.

21 3. Plaintiffs contend that Defendants failed to pay them for all hours worked,
22 provide them and other similarly situated workers with meal and rest breaks and failed to
23 pay the compensation due to them under the IWC for missed meal and rest breaks.
24 Defendants also failed to provide plaintiffs with proper documentation concerning their
25 hours worked and their compensation, as required by state law, and failed to meet other
26 legal requirements, all of which violate various provisions of the Labor Code and IWC
27 Wage Orders, with respect to their employment.

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PARTIES

1
2 4. Plaintiffs reside in Los Angeles County, California. Each of the Plaintiffs
3 and all members of the Plaintiff Class as defined below are or were employed by the
4 Defendants within the state of California during the relevant statutory period.

5 5. Plaintiffs bring their claims on behalf of a class (“Plaintiff Class”) which
6 consists of all nonexempt current and former employees employed at the Hyatt Regency
7 Long Beach during the relevant statutory period. Members of the Plaintiff Class were not
8 compensated in the amounts required by the Labor Code and the IWC Wage Orders
9 promulgated pursuant thereto. Members of the Plaintiff Class were not paid for all hours
10 worked, did not receive meal or rest breaks, or compensation for missed breaks, to which
11 they are entitled under Labor Code § 226.7 and IWC Wage Orders. Defendants’ failure
12 to compensate the Plaintiff Class as required and to provide them with required breaks,
13 or compensation for missed breaks, is and was a result of unlawful policies and practices
14 that were commonly applied to all members of the Plaintiff Class. Defendants also failed
15 to compensate members of the Plaintiff Class in accordance with the minimum wage and
16 overtime requirements of the Labor Code and the IWC Wage Orders promulgated
17 pursuant thereto.

18 6. Plaintiffs also bring this action on behalf of themselves, the general public,
19 and all others similarly situated pursuant to Business and Professions Code §§ 17200, *et*
20 *seq.*

21 7. Plaintiffs are informed and believe and thereon allege that at all relevant
22 times Defendant Global Hyatt Corporation owned and/or operated Hyatt Regency Long
23 Beach. Plaintiffs are ignorant of the true names and capacities of defendants sued herein
24 as DOES 1 through 100, inclusive, and therefore sue these defendants by such fictitious
25 names and capacities. Plaintiffs will seek leave to amend this complaint to allege the
26 true names and capacities of said fictitiously-named defendants once they have been
27 ascertained. Plaintiffs are informed and believe, and on that basis allege, that at all
28 relevant times, each of the fictitiously-named defendants was an agent or employee of

1 the named Defendants and/or was acting within the course and scope of said agency or
2 employment at the time of the events herein alleged, and/or was acting directly or
3 indirectly in the interest of Defendants in relation to Plaintiffs and the Plaintiff Class.
4 Plaintiffs are further informed and believe and on that basis allege that each of the
5 fictitiously-named defendants aided and assisted the named Defendants in committing
6 the wrongful acts alleged herein, and that Plaintiffs' damages, as alleged herein, were
7 proximately caused by such defendants. To the extent that the conduct and omissions
8 alleged herein were perpetrated by one or more defendants, the remaining defendants
9 confirmed and ratified said conduct and omissions.

10 8. Plaintiffs are informed and believe and thereupon allege that at all times
11 material herein, each defendant named herein, including DOES 1 through 100, acted as
12 the agent, joint venturer, representative, or alter ego of or for the other defendants, and
13 all aided and abetted the wrongful acts of the others.

14 **FACTUAL ALLEGATIONS**

15 9. Throughout the relevant statutory period, Plaintiffs and all members of the
16 Plaintiff Class are and/or were nonexempt employees of Defendants, entitled to all of the
17 protections afforded to nonexempt employees under the Labor Code and applicable IWC
18 Wage Orders.

19 10. Plaintiffs allege that at all times material herein, Defendants have been
20 aware of California laws requiring meal and rest breaks and have nevertheless engaged
21 in widespread and flagrant violations of these laws. On information and belief,
22 Defendants' payroll records reveal that hundreds of Plaintiff Class members routinely
23 did not receive rest breaks for several years. For example, Defendants required
24 housekeepers to clean as many as 30 rooms each shift, thus forcing them to miss their
25 meal and rest breaks or risk being disciplined and/or fired.

26 11. Defendants have failed to establish any system to allow employees to cover
27 each others' job responsibilities to enable them to give each other breaks and ensure
28 compliance with the meal and rest break laws. For example, Defendants did not provide

1 additional employees or relief at “front services,” in the restaurant, turn down lobby,
2 convention services, in the housekeeping, banquet, bell, or laundry/uniform departments.
3 Defendants regularly gave members of the Plaintiff Class job assignments they knew, or
4 should have known, did not allow enough time for these nonexempt employees to take
5 the required meal and rest breaks. For example, Defendants required “housekeepers” to
6 clean 22-30 rooms a day. The industry standard is 12-16 rooms a day. In order for
7 housekeepers to fulfill their room quota, they cannot take rest breaks and frequently miss
8 meal breaks. Likewise, Defendants did not permit “stewards” to take their rest breaks
9 because the kitchen—where they work—was too busy. Because Defendants assign one
10 “houseman” to respond to guest requests on several floors, they are unable to complete
11 their job assignments—moving refrigerators, flipping mattresses and stripping beds—if
12 they take their breaks. Defendants also did not sufficiently employ enough “lead cooks”
13 and “server assistants” so that these members of the Plaintiff Class could serve customers
14 in the restaurants and prepare food for the buffet as well as take rest breaks. Likewise,
15 Defendants discouraged Plaintiff Class members who worked at the front desk from
16 taking breaks and harassed those who requested rest breaks.

17 12. Plaintiff Class Members are required to regularly start work off the clock
18 before actually “swiping” in and being paid for their time. Evidence of this is indicated
19 in Defendants’ records, which show the time employees enter and leave the parking lot,
20 employee entrance/exit and the locker room. Class Members can also testify that they
21 were forced by Defendants to work off the clock and required employees to perform
22 more duties than could be done in an eight hours shift.

23 13. One example of the work Class Members performed off the clock is that
24 they were required to stock supplies and other equipment in cleaning carts—items which
25 are necessary to cleaning rooms. This work took between 15 and 45 minutes. Class
26 Members believed that if they failed to perform all duties or asked to be paid overtime,
27 they would be disciplined or terminated.

28 14. Defendants also failed to pay Plaintiff Class Members who worked as,

1 among other positions, housekeepers, housemen, at the front desk, stewards, lobby
2 attendants, room attendants, front desk agents, phone operators, concierge, cooks,
3 dishwashers, bartenders, waiters/waitresses, hosts/hostesses, cashiers, servers, bussers,
4 banquet servers, banquet housemen, as well as those who worked in convention services,
5 the purchasing department and the laundry department/uniforms for the time spent
6 changing into and out of required uniforms that were integral and indispensable to their
7 job duties.

8 15. Class Members spend a substantial and significant time beyond their
9 scheduled working hours—between 15 and 30 minutes per shift—donning and doffing
10 required uniforms. Defendants provided these uniforms, which are unique to the hotel
11 and restaurant industry and vary according to the position, a locker room to change into
12 and out of the uniforms, as well as laundry services where Plaintiff Class members
13 dropped off the dirty uniform at the end of the shift and picked up a new one at the
14 beginning of each shift. Defendants required that members of the Plaintiff Class be in
15 uniform and properly groomed prior to clocking-in. According to Defendants' Employee
16 Handbook, the Plaintiff Class's "appearance is an important part of the impression guests
17 have of [the] hotel," and are thus a benefit to Defendants. Moreover, uniforms convey
18 and legitimize Plaintiff Class members' authority, in addition to increasing their safety.

19 16. For example, housekeepers' and housemen's uniforms legitimize their
20 authority to enter guests' rooms, and move their personnel belongings. Uniforms
21 increase housekeepers' and housemen's safety because in street clothes guests might
22 legitimately assume these members of the Plaintiff Class are thieves or criminals who
23 have broken into their rooms. Uniforms are also necessary to the principal work
24 performed by Plaintiff Class. Plaintiff Class Members each wear a uniform tailored to
25 the specific work they are hired to perform. For example, Line Cooks and Lead Cooks
26 are required to wear uniform jackets (in addition to uniform pants). These uniforms
27 protect cooks' bodies against burns from boiling liquids in addition to heat rays from
28 grills and ovens. Hyatt Regency Long Beach also requires Plaintiff Class Members who

1 handle and prepare food, for example servers, server assistants, bussers, waiters,
2 waitresses, line cooks, lead cooks, banquet servers and banquet housemen, to wear
3 uniforms for hygienic purposes.

4 17. Defendants routinely require Plaintiff Class Members to leave their rest and
5 meal breaks early to return to work.

6 18. Defendants committed the acts alleged herein maliciously, fraudulently, and
7 oppressively with the wrongful intention of injuring Plaintiffs and the Plaintiff Class
8 and/or in conscious disregard of their rights. Plaintiffs and the Plaintiff Class are thus
9 entitled to recover punitive damages from Defendants in amounts to be proven at trial.

10 19. At relevant times Defendants failed to pay Plaintiffs for all hours worked,
11 failed to provide Plaintiffs and the Plaintiff Class meal and rest periods as required by
12 the applicable IWC Wage Orders, failed to pay Plaintiffs and the Plaintiff Class
13 compensation required by the Labor Code for missed meal and rest periods, and failed to
14 comply with other requirements of those statutes as alleged herein.

15 20. The underpayment of wages to the Plaintiffs and the Plaintiff Class is a
16 consequence of Defendants' unlawful compensation policies and practices which were
17 centrally devised, implemented, communicated, and applied to all members of the
18 Plaintiff Class at the Hyatt Regency Long Beach. These unlawful compensation
19 practices include, but are not limited to, the following:

- 20 • Defendants failed to pay hourly employees for all hours worked by
21 requiring them to work off the clock, by not paying them for all hours in
22 which the employee was clocked in and by insisting that hourly employees
23 work through breaks;
- 24 • Defendants failed to permit employees to take meal and rest breaks required
25 by law by forcing employees to work through breaks;
- 26 • Defendants failed to include the time employees spent working through
27 their required breaks in the number of hours worked for compensation
28 purposes;

- 1 • Defendants failed to pay one hour pay for each occasion an employee was
2 denied a break pursuant to Labor Code § 226.7 and applicable IWC Wage
3 Orders;
- 4 • Defendants failed to pay waiting time penalties required by Labor Code
5 § 203 when employees were terminated;
- 6 • Defendants failed to pay the legally-required minimum wage;
- 7 • Defendants failed to pay legally-required overtime compensation by
8 denying employees pay for hours time spent in necessary preparation for
9 work activities which led to employees working more than forty hours a
10 week;
- 11 • Defendants failed to provide accurate wage statements by failing to include
12 all hours worked, for example hours spent preparing supplies and work carts
13 as well as donning and doffing uniforms; and
- 14 • Other violations of the Labor Code and applicable IWC Wage Orders
15 according to proof.

16 21. As a result of Defendants' unlawful conduct, Plaintiffs and the Plaintiff
17 Class have been and continue to be systematically deprived of the wages to which they
18 are entitled by law, to the detriment of themselves, their families, and to the public at
19 large.

20 **CLASS ALLEGATIONS**

21 22. Proposed Class and Nature Of The Class Claims. The individual Plaintiffs,
22 as Class Representatives, bring this action on their own behalf and on behalf of a class
23 comprised of all nonexempt current and former employees who have been or will be
24 employed at the Hyatt Regency Long Beach during the relevant statutory period.

25 23. Numerosity. The size of the Plaintiff Class makes a class action both
26 necessary and efficient. On information and belief, Plaintiffs estimate that the Plaintiff
27 Class consists of several hundred current and former employees. Members of the
28 Plaintiff Class are ascertainable but so numerous that joinder is impracticable.

1 24. Typicality. The claims of the Class Representatives are typical of the claims
2 of the class as a whole. Each of the Class Representatives is and/or was employed by
3 Defendants during the relevant statutory period. Each of the Class Representatives was
4 underpaid, and continues to be underpaid, because of Defendants' unlawful employment
5 policies and practices. The unlawful policies and practices that have operated to deny
6 the Class Representatives wages, penalties, meal and rest periods, and other
7 compensation, benefits, and protections required by law are typical of the unlawful
8 practices that have and will continue to operate to deny other class members the
9 compensation and benefits to which they are entitled.

10 25. Common Questions Of Law And Fact. This case poses common questions
11 of law and fact affecting the rights of all class members, including but not limited to:

- 12 (a) Whether the following compensation policies and practices are
13 unlawful under the Labor Code and/or IWC Wage Orders:
- 14 • Failure to pay employees all hours worked;
 - 15 • Failure to permit employees to take meal and rest breaks required by
16 law;
 - 17 • Failure to include the time employees spend working through their
18 required breaks in the number of hours worked for compensation
19 purposes;
 - 20 • Failure to pay required compensation for missed break time pursuant
21 to Labor Code § 226.7 and applicable IWC Wage Orders;
 - 22 • Failure to pay waiting time penalties required by Labor Code § 203;
 - 23 • Failure to pay the legally-required minimum wage;
 - 24 • Failure to pay legally-required overtime compensation; and
 - 25 • Failure to provide accurate wage statements;
- 26 (b) What relief is necessary to remedy Defendants' unfair and unlawful
27 conduct as herein alleged; and
- 28 (c) Other questions of law and fact.

1 26. Adequacy Of Class Representation. The Class Representatives can
2 adequately and fairly represent the interests of the Plaintiff Class as defined above,
3 because their individual interests are consistent with, not antagonistic to, the interests of
4 the class.

5 27. Adequacy Of Counsel For The Class. Counsel for Plaintiffs possess the
6 requisite resources and ability to prosecute this case as a class action and are experienced
7 labor and employment attorneys who have successfully litigated other cases involving
8 similar issues.

9 28. Propriety of Class Action Mechanism. Class certification is appropriate
10 because Defendants have implemented a scheme which is generally applicable to the
11 Plaintiff Class, making it appropriate to issue final injunctive relief and corresponding
12 declaratory relief with respect to the class as a whole. Class certification is also
13 appropriate because the common questions of law and fact predominate over any
14 questions affecting only individual members of the class. Further, the prosecution of
15 separate actions against Defendants by individual class members would create a risk of
16 inconsistent or varying adjudications which would establish incompatible standards of
17 conduct for Defendants. For all these and other reasons, a class action is superior to
18 other available methods for the fair and efficient adjudication of the controversy set forth
19 in this complaint.

20 ALLEGATIONS OF CLASS REPRESENTATIVES

21 29. Celia Alvarez. Celia Alvarez has worked for Defendants since January
22 1990. Throughout her employment with Defendants, Ms. Alvarez has been classified as
23 a nonexempt employee. Ms. Alvarez is normally scheduled to work from 8 a.m.- 4:30
24 p.m., five days a week. Defendants have consistently not paid Ms. Alvarez, a
25 housekeeper, compensation for time spent changing into and out of her uniform in the
26 company locker room and stocking her cleaning cart. Every morning upon arriving to
27 work, Ms. Alvarez swipes her card to gain access through the employee entrance, obtains
28 keys, and then gets her uniform, unique to housekeepers, which she is required to wear

1 from the office. Ms. Alvarez changes into her uniform in Defendants' locker room, then
2 returns to the office where she must fill small bottles of cleaning supplies, coffee,
3 shampoo and other amenities in preparation of her cleaning duties. Approximately ten to
4 fifteen minutes later, she clocks-in by swiping her card. At the end of the day Ms.
5 Alvarez clocks out, changes out of her uniform in Defendants' locker room and leaves
6 her uniform to be cleaned by Defendants. Defendants do not pay Ms. Alvarez for the
7 time spend changing in and out of the uniform they provide her and require her to wear
8 or for the time spent preparing her cart with the supplies she needs to clean rooms. Ms.
9 Alvarez has received a ten minute rest break approximately four our five times a year.
10 Defendants did not permit Ms. Alvarez to take a rest break nearly every day she worked
11 in 2008, 2007, 2006, 2005, 2004 and 2003.

12 30. Benjamin Cuison. Benjamin Cuison has worked for Defendants since
13 December 1996. Throughout his employment with Defendants, Mr. Cuison has been
14 classified as a nonexempt employee. Mr. Cuison works in the housekeeping department
15 as a "house man," where his job duties include cleaning hallways, dusting and mopping
16 the vending areas and assisting the housekeepers with tasks such as moving beds,
17 flipping mattresses and attending to guest requests for refrigerators and roll-away beds.
18 Because Mr. Cuison is in charge of responding to requests between 6 and 8 floors
19 (depending on whether there are two or three housemen working per shift) he frequently
20 cannot take rest breaks because there are not sufficient other "housemen" do the work.
21 Thus, Mr. Cuison typically does not receive a rest break at least two days a week. Even
22 when Mr. Cuison is permitted to take a rest break, Defendants do not permit him to leave
23 the hotel and control his break time by calling him back to work on the radio.
24 Defendants require Mr. Cuison to wear a uniform, unique to housemen, consisting of a
25 brown shirt, black pants and black shoes. Mr. Cuison spends approximately 5-10 minutes
26 changing into his uniform and 5-10 minutes changing out of his uniform during a given
27 shift in Defendants' locker room. Defendants have consistently not paid Mr. Cuison
28 compensation for time spent changing into and out of his uniform in Defendants' locker

1 room.

2 31. Benjamin Leonen. Benjamin Leonen has worked for Defendants for the past
3 seven years. Throughout his employment with Defendants, Mr. Leonen has been
4 classified as a nonexempt employee. Mr. Leonen works as a “line cook” where his
5 duties include, preparing the breakfast buffet, cooking food, putting everything away
6 after breakfast, “prepping” stations for lunch and watching over three stations. Due to
7 understaffing, Defendants rarely permit Mr. Leonen to take rest breaks. Mr. Leonen is
8 often required to miss meal breaks as well. Defendants have consistently not paid Mr.
9 Leonen compensation for time spent changing into and out of his uniform, unique to his
10 department, which consists of black pants and a white jacket, in the company locker
11 room. Mr. Leonen typically spends 15 minutes changing into his uniform in the
12 morning, and approximately 10-15 minutes changing back into his street clothes at the
13 end of his shift in Defendants’ locker room.

14 32. Joseph Navata. Joseph Navata worked for Defendants from approximately
15 January 1996 to May 2009. Throughout his employment with Defendants, Mr. Navata
16 has been classified as a nonexempt employee. Mr. Navata worked varying schedules
17 during his thirteen years at Hyatt Long Beach as a “steward,” where his job duties
18 included washing dishes and putting food on plates. During his tenure at Hyatt Long
19 Beach, Mr. Navata was typically not permitted to take any rest breaks. When defendants
20 did permit Mr. Navata to take a rest break, his supervisor often called him back to work
21 to cover for another employee who did not come to work. Defendants required Mr.
22 Navata to wear a uniform, unique to the hotel and restaurant industry, at work and to
23 change on the premises. Mr. Navata typically took ten minutes to change into his
24 uniform, after which he would “swipe-in” approximately five minutes before his shift
25 was scheduled to start. At the end of his shift, Mr. Navata would swipe-out, walk down
26 the hall to the locker room about a five to ten minute walk away (depending on whether
27 he was working in the cafeteria on the fourth floor, or in Tides restaurant, downstairs).
28 Mr. Navata would then change back into his street clothes, drop of his uniform in a

1 laundry bag, which took between five and ten minutes.

2 33. Defendants have also denied Plaintiffs meal and rest breaks to which they
3 are entitled under state law, and have consistently not paid Plaintiffs compensation for
4 missed meal and rest breaks or compensation for time spent working through required
5 breaks. Defendants also failed to provide Plaintiffs with accurate wage statements.

6 **FIRST CAUSE OF ACTION**

7 **CLASS ACTION CLAIM FOR FAILURE TO PROVIDE MEAL PERIODS**

8 [Plaintiffs against All Defendants]

9 34. Plaintiffs reallege and incorporate by reference the allegations contained in
10 paragraphs 1 through 33 above.

11 35. At all relevant times, Defendants failed to conform their pay practices to the
12 requirements of the law as follows: Under § 11 of the applicable IWC Wage Orders,
13 “[n]o employer shall employ any person for a work period of more than five (5) hours
14 with a meal period of not less than 30 minutes.” The Class representatives and the
15 putative class members who worked for periods of more than five hours were regularly
16 denied meal periods as required by California law.

17 36. Since October 1, 2000, Labor Code § 226.7 and/or applicable IWC Wage
18 Orders required employers to pay employees one-hour of pay at the employee’s regular
19 rate for each workday in which the meal periods guaranteed to workers under California
20 law were not provided to an employee. Defendants have not compensated the Class
21 Representatives and the Plaintiff Class for their missed meal periods as required by
22 Labor Code § 226.7 and/or applicable IWC Wage Orders.

23 **SECOND CAUSE OF ACTION**

24 **CLASS ACTION CLAIM FOR FAILURE TO PROVIDE REST PERIODS**

25 [Plaintiffs against All Defendants]

26 37. Plaintiffs reallege and incorporate by reference the allegations contained in
27 paragraphs 1 through 36 above.

28 38. At all relevant times, Defendants failed to conform their pay practices to the

1 requirements of the law as follows:

2 39. Under § 12 of the applicable IWC Wage Orders, “[e]very employer shall
3 authorize and permit all employees to take rest periods, which insofar as practicable shall
4 be in the middle of each work period. The authorized rest period time shall be based on
5 the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
6 hours or major fraction thereof.” The Class representatives and the putative class
7 members were regularly denied the ability to take ten minute rest periods for every four
8 hours of work performed.

9 40. Since October 1, 2000, Labor Code § 226.7 and/or applicable IWC Wage
10 Orders required employers to pay employees one-hour of pay at the employee’s regular
11 rate for each workday in which the rest periods guaranteed to workers under California
12 law were not provided to an employee. Defendants have not compensated the Class
13 Representatives and the Plaintiff Class for their missed rest periods as required by Labor
14 Code § 226.7 and/or applicable IWC Wage Orders.

15 **THIRD CAUSE OF ACTION**

16 **CLASS ACTION CLAIM FOR FAILURE TO PAY TIMELY WAGES,**

17 **LABOR CODE SECTION 203**

18 [Plaintiffs against All Defendants]

19 41. Plaintiffs reallege and incorporate by reference the allegations contained in
20 paragraphs 1 through 40 above.

21 42. At all relevant times, Defendants failed to conform their pay practices to the
22 requirements of the law as follows:

23 43. Members of the Plaintiff Class who resigned or were terminated were not
24 paid the wages due to them at the time they left their employment, including but not
25 limited to payments for all missed meal and rest breaks, entitling them to recover waiting
26 time penalties equal to thirty days’ pay pursuant to Labor Code § 203.

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1 **FOURTH CAUSE OF ACTION**

2 **CLASS ACTION CLAIM FOR FAILURE TO PAY MINIMUM WAGE,**

3 **LABOR CODE SECTION 1197**

4 [Plaintiffs against All Defendants]

5 44. Plaintiffs reallege and incorporate by reference the allegations contained in
6 paragraphs 1 through 43 above.

7 45. At all relevant times, Defendants failed to conform their pay practices to the
8 requirements of the law as follows:

9 46. Labor Code § 1197 establishes the right of employees to be paid minimum
10 wages for their work, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a)
11 provide that an employee who has not been paid the legal minimum wage as required by
12 § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as
13 well as liquidated damages in an amount equal to the wages unpaid and interest thereon.

14 47. At all relevant times, Defendants failed to conform their pay practices to the
15 requirements of the law. This unlawful conduct includes, but is not limited to, failing to
16 pay to Plaintiffs the minimum wage compensation to which they were and are entitled
17 under the California Labor Code and the applicable IWC Wage Orders.

18 **FIFTH OF ACTION**

19 **CLASS ACTION CLAIM FOR FAILURE TO PAY OVERTIME WAGES,**

20 **LABOR CODE SECTION 1198**

21 [Plaintiffs against All Defendants]

22 48. Plaintiffs reallege and incorporate by reference the allegations contained in
23 paragraphs 1 through 47 above.

24 49. At all relevant times, Defendants failed to conform their pay practices to the
25 requirements of the law as follows:

26 50. During times relevant to this action, California Labor Code § 1198 and IWC
27 Wage Orders required employers to pay employees, including all members of the
28 Plaintiff Class, additional compensation beyond their regular wages in amounts specified

1 by law for all overtime hours worked. California Labor Code §§ 1194(a) and 1194.2(a)
2 provide that an employee who has not been paid overtime compensation as required by
3 § 1198 may recover the unpaid balance of the full amount of such wages, interest,
4 attorneys' fees and the costs of suit. At all times relevant herein, the IWC Wage Orders
5 were applicable to the Plaintiff Class.

6 51. At all relevant times, Defendants failed to conform their pay practices to the
7 requirements of the law. This unlawful conduct includes, but is not limited to, failing to
8 pay to Plaintiffs the overtime compensation to which they were and are entitled under the
9 California Labor Code and the applicable IWC Wage Orders.

10 **SIXTH OF ACTION**

11 **CLASS ACTION CLAIM FOR FAILURE TO PROVIDE ITEMIZED**

12 **STATEMENT**

13 **LABOR CODE SECTION 226**

14 [Plaintiffs against All Defendants]

15 52. Plaintiffs reallege and incorporate by reference the allegations contained in
16 paragraphs 1 through 51 above.

17 53. At all relevant times, Defendants failed to conform their pay practices to the
18 requirements of the law as follows:

19 54. During times relevant to this action, California Labor Code § 226(a)
20 required that employers, at the time of payment of wages, furnish each employee with an
21 accurate itemized statement showing gross wages earned and total hours worked, among
22 other things. Section 226 further provides that “an employee suffering injury as a result
23 of a knowing and intentional failure by an employer to comply with subdivision (a) is
24 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial
25 pay period in which a violation occurs and one hundred dollars (\$100) per employee for
26 each violation in a subsequent pay period, not exceeding an aggregate penalty of four
27 thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's
28 fees.”

1 these public policies, have violated specific provisions of the Labor Code, and have
2 engaged in other unlawful and unfair business practices in violation of Business and
3 Professions Code §§ 17200, *et seq.*, depriving Class Representatives, members of the
4 Plaintiff Class, and other interested persons of rights, benefits, and privileges guaranteed
5 to all employees in California.

6 61. At all times relevant to this action, Defendants have committed unfair and
7 unlawful business practices within the meaning of Business & Professions Code
8 §§ 17200, *et seq.* by engaging in conduct which includes, but is not limited to, failing to
9 provide meal and rest breaks, failing to pay compensation for missed break time, failing
10 to pay for time spent working through required breaks, and failing to pay legally-
11 required minimum wage and overtime compensation.

12 62. As a direct and proximate result of these unfair business practices,
13 Defendants have received and continue to receive funds that rightfully belong to
14 Plaintiffs.

15 63. Plaintiffs are entitled to, and hereby seek such relief as may be necessary to
16 restore to them the funds of which Plaintiffs have been deprived, by means of
17 Defendants' unlawful and unfair business practices.

18 64. Pursuant to Business and Professions Code § 17203, injunctive relief is
19 necessary to prevent Defendants from continuing to engage in unfair business practices
20 as alleged herein. Defendants, and persons acting in concert with them, have done, are
21 now doing, and will continue to do or cause to be done, the above-described unlawful
22 acts unless restrained and enjoined by this Court. Unless the relief prayed for below is
23 granted, a multiplicity of actions will result. Plaintiffs have no plain, speedy, or adequate
24 remedy at law, in that it is difficult to measure the amount of monetary damages that
25 would compensate Plaintiffs or the general public for Defendants' wrongful acts.
26 Further, pecuniary compensation alone would not afford adequate and complete relief.
27 The above-described acts will cause great and irreparable damage to Plaintiffs and the
28 general public if injunctive relief is not granted.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs respectfully pray that this Court award relief as follows:

- 3 1. An order certifying this case as a class action and appointing Plaintiffs and
4 their counsel to represent the Class;
- 5 2. Unpaid wages, and statutory penalties, according to proof;
- 6 3. Liquidated damages pursuant to California Labor Code § 1194.2(a) for
7 failure to pay minimum wage;
- 8 4. Preliminary and permanent injunctions enjoining and restraining Defendants
9 from continuing the unfair and unlawful business practices set forth above
10 and requiring the establishment of appropriate and effective means to
11 prevent future violations;
- 12 5. Restitution of all compensation due, including but not limited to unpaid
13 wages, as a result of Defendants' unlawful and unfair business practices,
14 according to proof;
- 15 6. Declaratory relief;
- 16 7. Reasonable attorneys' fees and costs;
- 17 8. Interest;
- 18 9. Such other and further relief as the Court deems just and proper.

19 **JURY TRIAL DEMAND**

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

21
22 DATED: September 4, 2009

Respectfully submitted,

23 HADSELL STORMER KEENY

24 ~~RICHARDSON & RENICK, LLP~~

25
26 By 

Randy Renick, Esq.
Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 I am employed in the county of Los Angeles, State of California. I am over
3 the age of 18 and not a party to the within action; my business address is 128 N. Fair
4 Oaks Avenue, Pasadena, California 91103

5 On September 4, 2009, I served the foregoing document described as
6 **FIRST AMENDED CLASS ACTION COMPLAINT** on all interested parties in this
7 action by a true copy thereof enclosed in sealed envelopes addressed as follows:

8 SEYFARTH SHAW LLP Aaron R. Lubeley (S.B.#199837) Catherine V. Meek (S. B. # 262084) 333 South Hope Street, Suite 3900 Los Angeles, California 90067-3063 Telephone: (213) 270-9600 Facsimile: (213) 270-9601	9 Attorneys for Defendants HYATT CORPORATION D/B/A HYATT REGENCY LONG BEACH and HYATT HOTELS CORPORATION
11 SEYFARTH SHAW LLP George E. Preonas (S.B.# 120284) Laurie E. Barnes (S.B.# 229038) 2029 Century Park East, Suite 3500 Los Angeles, California 90067-3021 Telephone: (310) 277-7200 Facsimile: (310) 201-5219	12 Attorneys for Defendants HYATT CORPORATION D/B/A HYATT REGENCY LONG BEACH and HYATT HOTELS CORPORATION

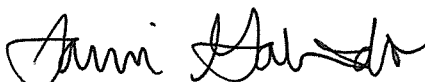
14 **XX BY MAIL**

15 I deposited such envelope in the mail at Pasadena, California. The
16 envelope was mailed with postage thereon fully prepaid.

17
18 **XX** I am readily familiar with the firm's practice of collection and
19 processing correspondence for mailing. Under that practice it would be deposited with
20 U.S. postal service on the same day with postage thereon fully prepaid at Pasadena,
21 California in the ordinary course of business. I am aware that on motion of the party
22 served, service is presumed invalid if postal cancellation date or postage meter date is
23 more than one day after date of deposit for mailing this affidavit.

24 Executed on September 4, 2009, at Pasadena, California.

25 **XX** (Federal) I declare that I am employed in the office of a member of the bar of
26 this Court at whose direction the serve was made.

27
28 
Tami Galindo
Declarant