

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

-----X
LUANN RUGGERI, on behalf of herself and
others similarly situated,

Plaintiff,

CIVIL ACTION NO.
3:06 CV 1985 (JBA)

v.

BOEHRINGER INGELHEIM CORPORATION

Defendant.
-----X

FEBRUARY 5, 2007

NOTICE OF FILING AMENDED COMPLAINT

Plaintiff Luann Ruggeri hereby gives notice of the filing of the attached Amended
Complaint, as of right, pursuant to F.R.C.P. 15(a) as it is being filed prior to any responsive
pleading on the part of the defendant.

THE PLAINTIFF

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**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

-----X
LUANN RUGGERI, BRIAN FARQUHAR,
RICHARD JARAMILLO, and PRAKASH
NAIK on behalf of themselves and others
similarly situated,

CIVIL ACTION NO.
3:06 CV 1985 (JBA)

Plaintiffs,

AMENDED COMPLAINT

v.

BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC.

FLSA COLLECTIVE ACTION
AND RULE 23 CLASS ACTION

DEMAND FOR JURY TRIAL

Defendant.
-----X

FEBRUARY 5, 2007

INTRODUCTION AND CERTAIN DEFINITIONS

1. This is an action for violation of federal wage and hour laws by and on behalf of former and current employees of Defendant, referred to below as "Covered Employees." The Covered Employees include Luann Ruggeri, Brian Farquhar, and Rick Jaramillo, Prakash Naik, Plaintiffs. Pursuant to a decision, policy and plan, these employees are unlawfully classified by Defendant as exempt from laws requiring overtime pay, but actually were and are non-exempt and entitled to overtime pay.
2. In this pleading, the term "Covered Employees" means all persons who have been, are, or in the future will be employed by the Defendant in any sales representative position, including but not limited to any job whose title is or was referred to by any of the following

titles, and employees who performed substantially the same work as employees with those titles (discovery may reveal additional titles and employees that should be included):

- a. Sales Representative
- b. Professional Sales Representative
- c. Specialty Sales Representative
- d. Senior Specialty Sales Representative

and who were employed during the statute of limitations period for the particular claim for relief in which the term Covered Employees is used, including time during which the statute of limitation was or may have been tolled or suspended. The above job positions are referred to herein as "Covered Positions."

3. In this pleading, "Defendant" refers to the defendant named in the particular claim for relief in which the word "Defendant" appears. Defendant is Boehringer Ingelheim Pharmaceutical, Inc. and all domestic affiliates and subsidiaries.

4. The allegations in this pleading are made without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proof, or persuasions. Plaintiffs reserve all rights to plead in the alternative.

JURISDICTION AND VENUE

5. This Court has original federal question jurisdiction under 28 U.S.C. § 1331 because this case is brought under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* ("FLSA"). This Court has supplemental jurisdiction over the state laws, presently consisting of the laws of California and Oregon, but possibly consisting of the laws of other states, as may be revealed in discovery. The state law claims are so related in this action within such original

jurisdiction that the form part of the same case or controversy under Article III of the United States Constitution.

6. Venue is proper in this District because Defendant's principal executive offices are in this District, and a substantial part of the events and omissions giving rise to the claims occurred in this District. Venue is proper in this District also because there is personal jurisdiction in this District over the Defendant. Presently and at all times, the Defendant has conducted substantial, continuous and systematic commercial activities in this District.

PARTIES

7. Defendant Boehringer Ingelheim Pharmaceuticals, Inc. ("Boehringer") is a Delaware corporation, with its United States headquarters in Ridgefield, Connecticut. Boehringer does business in all fifty states and the United States Territories.

8. Plaintiff Luann Ruggeri is a Florida resident and was employed by the Defendant for approximately six years ending in August 2005, starting as a Professional Specialty Sales Representative and subsequently as a Professional Sales Representative. Plaintiff Ruggeri worked hours in excess of forty (40) hours per workweek, without receiving overtime compensation as required by federal law.

9. Plaintiff Richard Jaramillo is a California resident and was employed by the Defendant as a Professional Sales Representative in California. Plaintiff worked hours in excess of forty (40) hours per workweek and eight (8) hours per workday, without receiving overtime compensation as required by federal and/or state law.

10. Plaintiff Brian Farquhar ("Plaintiff") is an Oregon resident and was employed by the Defendant as a Professional Sales Representative in Oregon. Plaintiff worked hours in

excess of forty (40) hours per workweek, without receiving overtime compensation as required by federal and/or state law.

11. Plaintiff Prakash Naik ("Plaintiff") is an Illinois resident and was employed by the Defendant as a Professional Sales Representative in Illinois. Plaintiff worked hours in excess of forty (40) hours per workweek, without receiving overtime compensation as required by federal law.

12. Plaintiffs are informed and believe and thereon allege at all relevant times the defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and/or other Covered Employees, and exercised control over the wages, hours and working conditions of Plaintiffs and Covered Employees. Plaintiffs are informed and believe and thereon allege, that, at all relevant times, the defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiffs are informed and believe and thereon allege that each defendant acted pursuant to and within the scope of the relationships alleged above, that each defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

FACTS

13. Plaintiffs Ruggeri, Farquhar, Jaramillo, and Naik are hereinafter collectively referred to as "Plaintiffs."

14. Plaintiffs hereby consent to sue pursuant to the FLSA § 16.

15. Upon information and belief, the Defendant employs thousands of pharmaceutical sales representatives in the United States and hundreds within the States Oregon, California and Illinois.

16. Plaintiffs and Covered Employees were paid a salary plus commissions for work performed.

17. Specifically, upon information and belief, Defendants' managers, with the knowledge and consent of corporate management, systemically violated the law throughout Oregon, California, Illinois and the United States, in the following respects:

- a.) Failing to pay employees overtime compensation for hours worked in excess of forty hours per week; and
- b.) Failing to maintain accurate records of employees' time; and
- c.) Failing to pay California Class members overtime compensation for hours worked in excess of eight hours per day.

18. As set forth above, Plaintiffs were employed by the Defendant. During this time, Plaintiffs on a regular basis worked over 40 hours per week.

19. In addition, Plaintiff Farquhar worked in excess of eight hours per workday.

20. Plaintiffs have sustained substantial losses from Defendant's failure to pay them overtime compensation.

21. Upon information and belief, other employees who worked for the Defendant throughout Oregon, California, Illinois and the United States and who are FLSA Collective Plaintiffs or members of the Oregon, Illinois and/or California Classes were subjected to the same policies and practices and have sustained similar losses of compensation for numerous hours worked on behalf of the Defendant.

22. Defendant, through its corporate management and regional and district managers, has deliberately trained, supervised, instructed, and authorized its managerial employees to engage in the above unlawful practices and has ratified its actions thereafter, in order to enhance corporate profits and reduce its labor costs.

FLSA COLLECTIVE ACTION ALLEGATIONS

23. Plaintiffs bring the First Claim for Relief for violation of the Fair Labor Standards Act ("FLSA") as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b) on behalf of all Covered Employees employed by the Defendant on or after the date that is three years before the filing of the Complaint in this case as defined herein ("FLSA Collective Plaintiffs").

24. At all relevant times, Plaintiffs and the other Covered Employees are and have been similarly situated, have had substantially similar job requirements and pay provisions, and have been subject to the Defendant's decision, policy, plan and common policies, programs, practices, procedures, protocols, routines, and rules (1) willfully failing and refusing to pay them at the legally required time an a half rates for work in excess of forty (40) hours per workweek, (2) willfully and inaccurately classifying them as exempt from overtime pay even though the Defendant was aware that the Covered Employees were non-exempt and entitled to overtime pay, and (3) willfully failing to keep records required by the FLSA. The claims of Plaintiffs stated herein are essentially the same as those of the other Covered Employees.

25. The First Claim for Relief is properly brought under and maintained as an opt-in collective action pursuant to § 16(b) of the FLSA, 29 U.S.C. 216(b). The Covered Employees are readily ascertainable. For purpose of notice and other purposes related to this action, their

names and addresses are readily available from the Defendant. Notice can be provided to the Covered Employees via first class mail to the last address known to the Defendant.

RULE 23 CLASS ALLEGATIONS – CALIFORNIA

26. Plaintiff Jaramillo (“California Plaintiff”) brings the California Claims for Relief, pursuant to the Federal Rules of Civil Procedure (“FRCP”) Rule 23, on behalf of all persons who were, are, or will be employed by the Defendant on or after the date that is four years before the filing of the Complaint in this case (the “Class Period”).

27. The proposed class that the California Plaintiff seeks to represent is defined as all persons who have been, are, or in the future will be employed in California by the Defendant in any of the “Covered Positions.” All said persons, including the California Plaintiff, are referred to herein as the “California Class.” The California Class members are readily ascertainable. The number and identity of the California Class members are determinable from the records of the Defendant. The hours assigned and worked, the positions held, and the rates of pay for each California Class member are also determinable from Defendant's records. For purposes of notice and other purposes related to this action, their names and addresses are readily available from the Defendant. Notice can be provided by means permissible under said FRCP 23.

28. The proposed California Class is so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the court. Although the precise number of such persons is unknown, and the facts on which the calculation of that number are presently within the sole control of the Defendant, upon information and belief, there are more than two hundred (200) members of the California Class.

29. Plaintiff's claims are typical of those claims which could be alleged by any member of the California Class, and the relief sought is typical of the relief which would be

sought by each member of the California Class in separate actions. All the California Class members were subject to the same corporate practices of the Defendant, as alleged herein, of failing to pay overtime compensation and failing to maintain accurate records. Defendant's corporate-wide policies and practices affected all California Class members similarly, and the Defendant benefited from the same type of unfair and/or wrongful acts as to each California Class member. The California Plaintiff and other California Class members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

30. The California Plaintiff is able to fairly and adequately protect the interests of the California Class and has no interests antagonistic to the California Class. The California Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented plaintiffs in wage and hour cases.

31. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because the losses, injuries and damages suffered by each of the individual California Class members are small in the sense pertinent to a class action analysis, the expenses and burden of individual litigation would make it extremely difficult or impossible for the individual California Class members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of

individual litigation claims would result in a great expenditure of court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the California Class would create a risk of inconsistent and/or varying adjudications with respect to the individual members of the California Class, establishing incompatible standards of conduct for the Defendant and resulting in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

32. Upon information and belief, the Defendant and other employers throughout the state violate the California Labor Law. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing claims because doing so can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the complaint a degree of anonymity which allows for the vindication of their rights while eliminating or reducing these risks.

33. There are questions of law and fact common to the California Class which predominate over any questions affecting only individual class members, including:

- a) Whether the Defendant employed or jointly employed the California Plaintiff and the California Class within the meaning of the California law.
- b) What proof of hours is sufficient where the Defendant failed in their duty to maintain time records.

- c) What were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding payment of overtime wages.
- d) What were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding payment of wages for all hours worked.
- e) Whether the Defendant failed and/or refused to pay the California Plaintiff and the California Class premium pay for hours worked in excess of forty per workweek or eight hours per workday within the meaning of California law.
- f) What are and were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding the types of work and labor for which the Defendant did not pay the California Class members at all.
- g) At what common rate, or rates subject to common methods of calculation, was and is the Defendant required to pay the California Class members for their work.
- h) What are the common conditions of employment and in the workplace, such as record keeping, breaks, and policies and practices regarding labor budgeting, that affect whether the California Class was paid at overtime rates for overtime work.
- i) Whether the Defendant compensated class members that terminated their employment all wages owed them immediately upon the termination of their employment as required by California law.
- j.) Whether the Defendant provided Plaintiffs with rest periods and meal breaks as required by California law.

RULE 23 CLASS ALLEGATIONS – OREGON

34. Plaintiff Farquhar, (“Oregon Plaintiff”) brings the Oregon Claims for Relief, pursuant to the Federal Rules of Civil Procedure (“FRCP”) Rule 23, on behalf of all persons who were, are, or will be employed by the Defendant on or after the date that is two years before the filing of the Complaint in this case (the “Class Period”).

35. The proposed class that the Oregon Plaintiff seeks to represent is defined as all persons who have been, are, or in the future will be employed in Oregon by the Defendant in any of the “Covered Positions.” All said persons, including the Oregon Plaintiff, are referred to herein as the “Oregon Class.” The Oregon Class members are readily ascertainable. The number and identity of the Oregon Class members are determinable from the records of the Defendant. The hours assigned and worked, the positions held, and the rates of pay for each Oregon Class member are also determinable from the Defendant's records. For purposes of notice and other purposes related to this action, their names and addresses are readily available from the Defendant. Notice can be provided by means permissible under said FRCP 23.

36. The proposed Oregon Class is so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the court. Although the precise number of such persons is unknown, and the facts on which the calculation of that number are presently within the sole control of the Defendant, upon information and belief, there are more than one hundred (200) members of the Oregon Class.

37. Plaintiff's claims are typical of those claims which could be alleged by any member of the Oregon Class, and the relief sought is typical of the relief which would be sought by each member of the Oregon Class in separate actions. All the Oregon Class members were subject to the same corporate practices of the Defendant, as alleged herein, of failing to pay

overtime compensation and failing to maintain accurate records. Defendant's corporate-wide policies and practices affected all Oregon Class members similarly, and the Defendant benefited from the same type of unfair and/or wrongful acts as to each Oregon Class member. The Oregon Plaintiff and other Oregon Class members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

38. The Oregon Plaintiff is able to fairly and adequately protect the interests of the Oregon Class and has no interests antagonistic to the Oregon Class. The Oregon Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented plaintiffs in wage and hour cases.

39. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because the losses, injuries and damages suffered by each of the individual Oregon Class members are small in the sense pertinent to a class action analysis, the expenses and burden of individual litigation would make it extremely difficult or impossible for the individual Oregon Class members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the Oregon Class would create a risk of

inconsistent and/or varying adjudications with respect to the individual members of the Oregon Class, establishing incompatible standards of conduct for the Defendant and resulting in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

40. Upon information and belief, the Defendant and other employers throughout the state violate the Oregon Law. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing claims because doing so can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the complaint a degree of anonymity which allows for the vindication of their rights while eliminating or reducing these risks.

41. There are questions of law and fact common to the Oregon Class which predominate over any questions affecting only individual class members, including:

- a) Whether the Defendant employed or jointly employed the Oregon Plaintiff and the Oregon Class within the meaning of the Oregon law.
- b) What proof of hours is sufficient where the Defendant failed in its duty to maintain time records.
- c) What were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding payment of overtime wages.
- d) What were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding payment of wages for all hours worked.

- e) Whether the Defendant failed and/or refused to pay the Oregon Plaintiff and the Oregon Class premium pay for hours worked in excess of forty per workweek within the meaning of Oregon law.
- f) What are and were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding the types of work and labor for which the Defendant did not pay the Oregon Class members at all.
- g) At what common rate, or rates subject to common methods of calculation, was and is the Defendant required to pay the Oregon Class members for their work.
- h) What are the common conditions of employment and in the workplace, such as record keeping, breaks, and policies and practices regarding labor budgeting, that affect whether the Oregon Class was paid at overtime rates for overtime work.

RULE 23 CLASS ALLEGATIONS – ILLINOIS

42. Plaintiff Naik (“Illinois Plaintiff”) brings his Illinois Minimum Wage Law claim, pursuant to Ill. Rev. Stat., ch. 820, para. 105/1 *et seq.* (“IMWL”), under Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of all persons who were, are, or will be employed by the Defendant on or after the date that is three years before the filing of the Complaint in this case (the “Illinois Class Period”).

43. The proposed class that the Illinois Plaintiff seeks to represent is defined as all persons who have been, are, or in the future will be employed in Illinois by the Defendant in any of the “Covered Positions.” All said persons, including Plaintiff Naik, are referred to herein as the “Illinois Class.” The class members are readily ascertainable. The number and identity of the

Illinois Class members are determinable from the records of the Defendant. The shifts assigned and worked, the positions held, and the rates of pay for each Illinois Class member are also determinable from the Defendant's records. For purposes of notice and other purposes related to this action, their names and addresses are readily available from the Defendant. Notice can be provided by means permissible under said Fed. R. Civ. Proc. 23.

44. The proposed Illinois Class is so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the court. Although the precise number of such persons is unknown, and the facts on which the calculation of that number are presently within the sole control of the Defendant, upon information and belief, there are more than two hundred (200) members of the Illinois Class.

45. The claims of the Illinois Plaintiffs are typical of those claims which could be alleged by any member of the Illinois Class, and the relief sought is typical of the relief which would be sought by each member of the Illinois Class in separate actions. All the Illinois Class members were subject to the same corporate practices of the Defendant, as alleged herein, of failing to pay overtime compensation and failing to maintain accurate records. Defendant's corporate-wide policies and practices affected all Illinois Class members similarly, and the Defendant benefited from the same type of unfair and/or wrongful acts as to each Illinois Class member. Ms. Higgs and other Illinois Class Members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

46. The Illinois Plaintiff is able to fairly and adequately protect the interests of the Illinois Class and has no interests antagonistic to the class. The Illinois Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented plaintiffs in wage and hour cases.

47. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because the losses, injuries and damages suffered by each of the individual Illinois Class members are small in the sense pertinent to a class action analysis, the expenses and burden of individual litigation would make it extremely difficult or impossible for the individual Illinois Class members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the Illinois Class would create a risk of inconsistent and/or varying adjudications with respect to the individual members of the Illinois Class, establishing incompatible standards of conduct for the Defendant and resulting in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

48. Upon information and belief, the Defendant and other employers throughout the state violate the IMWA. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing claims because doing so

can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the complaint a degree of anonymity which allows for the vindication of their rights while eliminating or reducing these risks.

49. There are questions of law and fact common to the Illinois Class which predominate over any questions affecting only individual class members, including:

- a) Whether the Defendant employed or jointly employed the Illinois Plaintiff and the Illinois Class within the meaning of the Illinois law.
- b) What proof of hours is sufficient where the Defendant failed in its duty to maintain time records.
- c) What were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding payment of overtime wages.
- d) What were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding payment of wages for all hours worked.
- e) Whether the Defendant failed and/or refused to pay the Illinois Plaintiff and the Illinois Class premium pay for hours worked in excess of forty per workweek within the meaning of Illinois law.
- f) What are and were the policies, practices, programs, procedures, protocols and plans of the Defendant regarding the types of work and labor for which the Defendant did not pay the class members at all.
- g) At what common rate, or rates subject to common methods of calculation, was and is the Defendant required to pay the class members for their work.
- h) What are the common conditions of employment and in the workplace, such as record keeping, breaks, and policies and practices regarding labor

budgeting, that affect whether the class was paid at overtime rates for overtime work.

i) What are the common conditions of employment and in the workplace, such as record keeping, breaks, and policies and practices regarding labor budgeting, that affect whether the class was paid at least the minimum wage for all work.

FIRST CLAIM FOR RELIEF
(FLSA Overtime
And Record Keeping Violations, 29 U.S.C. §§ 201 *et seq.*
Brought by Plaintiff on Behalf of Themselves
and the FLSA Collective Plaintiffs)

50. Plaintiffs, on behalf of themselves and other FLSA Collective Plaintiffs, realleges and incorporates by reference all previous paragraphs.

51. Plaintiffs are informed and believes and thereon alleges that at all relevant times, the Defendant has been, and continues to be, an “employer” engaged in interstate “commerce” within the meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, the Defendant has employed, and continues to employ the FLSA Collective Plaintiffs as “employee[s]” within the meaning of the FLSA. At all relevant times, the defendant has had gross operating revenues in excess of \$500,000.

52. Throughout the statute of limitations period covered by these claims, Plaintiffs and the other FLSA Collective Plaintiffs regularly worked in excess of forty (40) hours per workweek and continue to do so.

53. At all relevant times, the Defendant has had, and continues to operate under a decision, policy and plan, and under common policies, programs, practices, procedures, protocols, routines and rules of willfully failing and refusing to pay the FLSA Collective

Plaintiffs at time and a half rates for work in excess of forty (40) hours per workweek, and willfully failing to keep records required by the FLSA even though the FLSA Collective Plaintiffs have been and are entitled to overtime.

54. At all relevant times, the Defendants willfully, regularly and repeatedly failed, and continues to fail to pay Plaintiffs and the FLSA Collective Plaintiffs at the required overtime rates, one and a half times their regular hourly rates, for hours worked in excess of forty (40) hours per workweek.

55. At all relevant times, the Defendant willfully, regularly and repeatedly failed, and continues to fail to make, keep and preserve accurate records required by the FLSA with respect to Plaintiffs and the other FLSA Collective Plaintiffs, including records sufficient to the accurately determine the wages and hours of employment pertaining to Plaintiffs and the other FLSA Collective Plaintiffs.

56. Plaintiff, on behalf of herself and the FLSA Collective Plaintiffs, seek damages in the amount of their respective unpaid overtime compensation, liquidated (double) damages as provided by the FLSA for overtime violations, attorneys' fees and costs, and such other legal and equitable relief as this Court deems just and proper.

SECOND TO SEVENTH CLAIMS FOR RELIEF- CALIFORNIA STATE LAW CLAIMS
Brought by California Plaintiff on Behalf of
Himself and the California Class

SECOND CLAIM FOR RELIEF
(California Unfair Competition Law, Cal. Bus. & Prof. Code §17200 et seq.

57. The California Plaintiff, on behalf of himself and the California Class, realleges and incorporates by reference paragraphs 1-33.

58. The foregoing conduct, as alleged, violates the California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.* Section 17200 of the Cal. Bus. & Prof. Code prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair business acts or practices.

59. Defendant committed acts of unfair competition, as defined by the UCL, by, among other things, engaging in the acts and practices described herein. Defendant's conduct as herein alleged has damaged the California Plaintiff and the California Class by wrongfully denying their earned wages, and therefore was substantially injurious to The California Plaintiff.

60. Defendant's course of conduct, acts, and practices in violation of California laws constitute a separate and independent violation of the UCL. Defendant's conduct described herein violates the policy or spirit of such laws or otherwise significantly threatens or harms competition.

61. The harm to the California Plaintiff and the California Class in being wrongfully denied lawfully earned wages outweighs the utility, if any, of the Defendant's policies or practices and, therefore, Defendant's actions described herein constitute an unfair business practice or act within the meaning of the UCL.

62. The unlawful and unfair business practices and acts of the Defendant, as described above, has injured the California Plaintiff and the California Class in that they were wrongfully denied the payment of earned compensation, both at their regular rate and overtime wages.

63. The California Plaintiff and the California Class seek recovery of attorneys' fees and costs of this action to be paid by Defendant, as provided by the UCL and applicable law.

64. The California Plaintiff and the California Class seek damages in the amount of the respective unpaid regular hourly wages for hours of work up to 40 hours per week and their unpaid overtime for all hours of work in excess of 40 hours per week and/or 8 hours per day, attorneys' fees, and cost of suit and such other legal and equitable relief from the Defendant's unlawful and willful conduct as the Court deems just and proper.

THIRD CLAIM FOR RELIEF
(California Overtime Provisions
Cal. Wage Order No. 4; Cal. Labor Code §§ 510, 1194, and 1194.5

65. The California Plaintiff, on behalf of himself and the California Class, realleges and incorporates by reference paragraphs 1-33.

66. It is unlawful under California law for an employer to suffer or permit an employee to work without paying wages for all hours worked, including overtime wages for work in excess of eight (8) hour workdays and/or forty (40) hour workweeks.

67. The California Plaintiff and the California Class were not properly compensated for hours that he worked in excess of 8 hours per weekday and/or 40 hours per week.

68. As a direct and proximate result of the Defendant's unlawful conduct, as set forth herein, the California Plaintiff and the California Class have sustained damages, including loss of earnings, in an amount to be established at trial.

69. The California Plaintiff and the California Class seek damages in the amount of the respective unpaid overtime compensation, plus penalties, as provided by state law, prejudgment interest, and costs and attorneys' fees, pursuant to statute, and such other legal and equitable relief as the Court deems just and proper.

FOURTH CLAIM FOR RELIEF
(California Waiting Period Penalties,
Cal. Labor Code §§ 201-203)

70. The California Plaintiff, on behalf of himself and the California Class, realleges and incorporates by reference paragraphs 1-33.

71. A California employer must compensate an employee that terminates his employment not later than 72 hours thereafter.

72. Defendant failed to pay the California Plaintiff and members of the California Class whose employment terminated the overtime compensation they were owed within 72 hours of the termination of their employment.

73. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein, the California Plaintiff and the California Class have sustained damages, including loss of earnings, in an amount to be established at trial.

74. The California Plaintiff and the California Class are entitled to seek penalties under Labor Code § 203 equal to their regular rate of pay for period of 30 days.

FIFTH CLAIM FOR RELIEF
(California Record-Keeping Provisions,
Cal. Wage Order No. 4; Cal. Labor Code §§ 226, 1174, & 1174.5)

75. The California Plaintiff, on behalf of himself and the California Class, realleges and incorporates by reference paragraphs 1-33.

76. By failing to record, report, and/or compensate the California Plaintiff and the California Class for compensable time performed before and after their regularly scheduled shifts, the Defendant has failed knowingly and intentionally to make, keep, maintain, and preserve records with respect to each of its employees sufficient to determine their wages, hours,

and other conditions and practice of employment in violation of Labor Code §§ 226(a), 1174(d) and the IWC Wage Order.

77. The California Plaintiff and the California Class are entitled to and seek injunctive relief requiring the Defendant to comply with Cal. Labor Code §§ 226(a) and 1174(d), and further seek penalties under Cal. Labor Code §§ 226(e) and 1174.5, including the greater of all actual damages or one hundred dollars (\$100) for the initial pay period in which a violation occurs and two hundred dollars (\$200) per employee for each violation in a subsequent pay period.

SIXTH CLAIM FOR RELIEF
(California Meal and Rest Period Provisions, Cal. Labor Code §§ 226.7 & 512, and CA Wage Order No. 4)

78. The California Plaintiff, on behalf of himself and the California Class, realleges and incorporates by reference paragraphs 1-33.

79. Defendant failed to provide the California Plaintiff and the California Class with a half-hour meal break for every work period of more than five hours per day and ten minute rest period for every four hours worked, in violation of Cal. Labor Code § 512 and the IWC Wage Order.

80. Under Labor Code §§ 226.7, the California Plaintiff and the California Class are entitled to seek one additional hour of pay at the Plaintiffs' regular rate of compensation for each meal or rest period not provided.

SEVENTH CLAIM FOR RELIEF
(Oregon Overtime Provisions
Or St. § 653.261 and Or. Admin. R. § 839-020-0030)

81. The Oregon Plaintiff, on behalf of himself and the Oregon Class, realleges and incorporates by reference paragraphs 1-25 and 34-41.

82. It is unlawful under Oregon law for an employer to suffer or permit an employee to work without paying wages for all hours worked, including overtime wages for work in excess of forty (40) hour workweeks.

83. The Oregon Plaintiff and the Oregon Class were not properly compensated for hours that he worked in excess of 40 hours per week.

84. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein, the Oregon Plaintiff and the Oregon Class have sustained damages, including loss of earnings, in an amount to be established at trial.

85. The Oregon Plaintiff and the Oregon Class seek damages in the amount of the respective unpaid overtime compensation, plus penalties, as provided by state law, prejudgment interest, and costs and attorneys' fees, pursuant to statute, and such other legal and equitable relief as the Court deems just and proper.

EIGHTH CLAIM FOR RELIEF
(Failure to Pay wages Upon Termination
Or St. § 653.150 and Or. Admin. R. § 839-001-0420)

86. The Oregon Plaintiff, on behalf of himself and the Oregon Class, realleges and incorporates by reference paragraphs 1-25 and 34-41.

87. Defendant failed to pay the Oregon Plaintiff and members of the Oregon Class whose employment terminated the overtime compensation they were owed following of the termination of their employment.

88. Plaintiff and the Oregon class are entitled to penalties pursuant to O.R.S. § 652.150.

89. The Oregon Plaintiff and the Oregon Class seek damages in the amount of the respective unpaid overtime compensation, plus penalties, as provided by state law, prejudgment

interest, and costs and attorneys' fees, pursuant to statute, and such other legal and equitable relief as the Court deems just and proper.

NINTH CLAIM FOR RELIEF
(Illinois Overtime Claims)

90. The Illinois Plaintiff, on behalf of himself and the Illinois Class, realleges and incorporates by reference paragraphs 1-25 and 34-41.

91. At all relevant times, the Defendant has employed, and continues to employ the Illinois Plaintiff and Illinois Class as "employee[s]" within the meaning of the IMWL.

92. Throughout the Illinois Class Period, the Illinois Plaintiff and the Illinois Class members regularly worked in excess of forty (40) hours per workweek, and continue to do so.

93. At all relevant times, Defendant has had, and continue to have, common policies, programs, practices, procedures, protocols, routines, and rules of willfully failing and refusing to pay the Illinois Plaintiff and Illinois Class members at time and a half rates for work in excess of forty (40) hours per workweek, and willfully failing to keep records required by the IMWL.

94. At all relevant times, Defendant, through its policies and practices described above, willfully violated the IMWL throughout the Illinois Class Period, as follows:

a.) By failing to pay the Illinois Plaintiff and Illinois Class members overtime compensation for hours of work they performed for the Defendant in excess of 40 hours per week;

b.) By failing to make, keep and preserve accurate time records with respect to the Illinois Plaintiff and Illinois Class members sufficient to determine their wages and hours; and

c.) By other practices in violation of the IMWL.

95. The foregoing conduct, as alleged above, constitutes continuing, willful violations of the IMWL.

96. Defendant willfully failed to pay Illinois Plaintiff and Illinois Class all wages owed to them, in violation of Ill. Rev. Stat., ch. 820, para. 115/4.

97. As set forth above, the Illinois Plaintiff and Illinois Class members have sustained losses in their compensation as a proximate result of Defendant's violations. Accordingly, Illinois Plaintiff, on behalf of himself and the Illinois Class, seeks damages in the amount of their respective unpaid compensation, injunctive relief requiring the Defendant to cease and desist from its violations of the Illinois laws described herein and to comply with them, and such other legal and equitable relief as the Court deems just and proper. Under IMWL, Illinois Plaintiff and the Illinois Class are entitled to liquidated damages equal to 2% liquidated for each month which payments remain unpaid.

98. Illinois Plaintiff, on behalf of himself and the Illinois Class, seek recovery of their attorneys' fees and the costs of this action to be paid by Defendants, pursuant to IMWL.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of herself and the Covered Employees, pray for relief as follows:

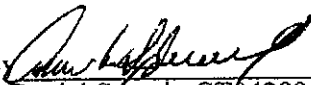
- A. A declaratory judgment that the practices complained of herein are unlawful under FLSA;
- B. Certification of this action as a collective action brought pursuant to the FLSA § 216(b);
- C. Designation of Plaintiffs as representatives of the FLSA Collective Action;

- D. An award of damages, according to proof, including liquidated damages, to be paid by the Defendant;
- E. Penalties available under applicable law;
- F. Costs of action incurred herein, including expert fees;
- G. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216 and other applicable statutes;
- H. Pre-Judgment and post-judgment interest, as provided by law; and
- I. Such other and further legal and equitable relief as this Court deems necessary, just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all other Covered Employees, hereby demands a jury trial on all causes of action and claims with respect to which they have a right to jury trial.

THE PLAINTIFFS

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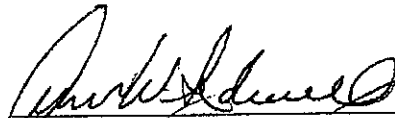
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CERTIFICATE OF SERVICE

This is to certify that on February 5, 2007, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system and by mail to all parties that are unable to accept electronic filing. Parties may access this filing through the Court's electronic system.



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