

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
DST OUTPUT OF CALIFORNIA, INC., a California corporation; and
DOES 1 through 50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
MICHAEL MUIR, an individual, on behalf of himself and all others
similarly situated

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pide al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
720 NINTH STREET
SACRAMENTO, CA 95814**

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
**MEGAN ROSS HUTCHINS (Bar # 237779) Phone No. (949) 260-9171
LAW OFFICE OF MICHAEL L. TRACY Fax No. (866) 365-3051
2030 MAIN STREET, SUITE 1300, IRVINE, CA 92614**

A. WOODWARD

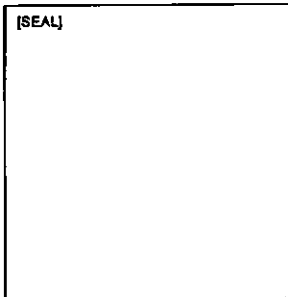
DATE: _____ Clerk, by _____, Deputy
(Fecha) **NOV - 9 2007** (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
MEGAN ROSS HUTCHINS (State Bar # 237779)
LAW OFFICE OF MICHAEL L. TRACY
 2030 MAIN STREET, SUITE 1300, IRVINE, CA 92614
 TELEPHONE NO.: (949) 260-9171 FAX NO.: (866) 365-3051
 ATTORNEY FOR (Name): **PLAINTIFF**

FILED **CM-010**
 FOR COURT USE ONLY
Superior Court of California,
Sacramento
Dennis Jones, Executive
Officer
11/09/2007
awoodward
 By _____, Deputy
Case Number:
34-2007-00540655-CU-OE-GDS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
 STREET ADDRESS: **720 NINTH STREET**
 MAILING ADDRESS:
 CITY AND ZIP CODE: **95814**
 BRANCH NAME: **GORDON D. SCHABER**

CASE NAME:
MUIR V. DST

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
 JUDGE:
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|---|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input checked="" type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|---|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **FIVE (5)**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **NOVEMBER 7, 2007**
MEGAN ROSS HUTCHINS
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 MICHAEL L. TRACY, ESQ., SBN 237779
2 MEGAN ROSS HUTCHINS, ESQ., SBN 227776
3 LAW OFFICES OF MICHAEL TRACY
4 2030 Main Street, Suite 1300
Irvine, CA 92614
T: (949) 260-9171
F: (866) 365-3051

5 Attorneys for Plaintiff MICHAEL MUIR

FILED
Superior Court Of California,
Sacramento
Dennis Jones, Executive
Officer
11/09/2007
awoodward
By _____, Deputy
Case Number:
34-2007-00540655-CU-OE-GDS

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SACRAMENTO

11 MICHAEL MUIR, an individual, on behalf of
12 himself and all others similarly situated,

13 Plaintiff,

14 vs.

15 DST OUTPUT OF CALIFORNIA, INC., a
California corporation; and DOES 1 through 50,
16 inclusive,

17 Defendants.

) Case No.

) CLASS ACTION COMPLAINT FOR
) UNPAID OVERTIME, MEAL BREAKS,
) IMPROPER PAY STUBS, WAITING
) TIME PENALTIES, AND UNFAIR
) BUSINESS PRACTICES

) DEMAND FOR JURY TRIAL

18 Plaintiff, MICHAEL MUIR, alleges:

19 GENERAL ALLEGATIONS

20 1. This Complaint is a Class Action brought pursuant to the Code of Civil Procedure
21 §382 for unpaid overtime, various other labor violations and illegal business practices on behalf of
22 all California employees of Defendants.

23 2. This Court is the proper court and this action is properly filed in the County of
24 Sacramento and in this judicial district because Defendants do business in the County of
25 Sacramento, and because Defendants' obligations and liabilities arise therein, and because the work
26 that was performed by Plaintiffs in the County of Sacramento is the subject of this action. Venue as
27 to each defendant is proper in this judicial district, pursuant to Code of Civil Procedure §395. The
28 unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated within the

1 State of California.

2 3. Defendant, DST OUTPUT OF CALIFORNIA, INC. ("DST"), is a California
3 corporation doing business in the County of Sacramento, State of California.

4 4. The true names and capacities of DOES 1 through 50 are unknown to Plaintiff, who
5 therefore sues the DOE Defendants by fictitious names. Plaintiff will amend this Complaint to
6 show their true names and capacities when they have been ascertained. Plaintiff is informed and
7 believes, and hereon alleges, that some such Doe defendants are residents of California.

8 5. Plaintiff is informed and believes that Defendants, each and all of them, at all times
9 material hereto, were the joint employers, parent companies, successor companies, predecessors in
10 interest, affiliates, agents, employees, servants, joint venturers, directors, fiduciaries,
11 representatives, and/or coconspirators of each of the remaining Defendants. The Defendants,
12 unless otherwise alleged, at all times material hereto, performed all acts and omissions alleged
13 herein within the course and scope of said relationship, and are a proximate cause of Plaintiff's
14 damages as herein alleged.

15 **PARTIES**

16 6. Plaintiff was employed by Defendants from October 2001 through October 2006 as
17 a computer programmer. In this role, he regularly worked hours in excess of 8 hours in a day.
18 Plaintiff also worked more than 40 hours in a week during some of the weeks of his employment.

19 7. Defendant DST calls itself a "customer communications company." DST claims to
20 "provide integrated print-and-electronic billing, customer case, and customer communications
21 solutions." (http://www.dstoutput.com/about_us/overview.html). DST develops custom billing
22 solutions for its clients. DST employs numerous computer programmers to perform the routine
23 programming, testing, and maintaining of these billing programs.

24 **CLASS ACTION ALLEGATIONS**

25 8. Plaintiff brings this action on behalf of himself and all other similarly situated as a
26 Class Action pursuant to §382 of the Code of Civil Procedure. Plaintiff seeks to represent a class
27 of all computer programmers, who are currently employed or have been employed by defendants
28 within the State of California who at any during the applicable statute of limitations: (1) worked

1 more than 8 hours in a day or 40 hours in a week without being compensated at the proper
2 premium rate, (2) worked more than five hours without a proper meal break, (3) received a pay
3 check stub that did not accurately reflect all the information required by Labor Code §226, or (4)
4 were willfully not paid all wages upon leaving employment with DST.

5 9. The term "computer programmers" includes, but is not limited to Programmer,
6 Senior Programmer, Software Engineer, Senior Software Engineer, or anyone, regardless of job
7 title, who was primarily engaged in the documentation, analysis, creation or modification of
8 computer systems or programs.

9 10. Plaintiff proposes the following Class which will be referred to as the "California
10 Overtime Class:"

11 All person who, from three years prior to the commencement of this action up
12 to the time of judgment, worked as computer programmers for DST within the
13 State of California and who worked more than 8 hours in a day or 40 hours in
14 a week.

15 11. Plaintiff proposes the following Class which will be referred to as the "California
16 Meal Break Class:"

17 All person who, from three years prior to the commencement of this action up
18 to the time of judgment, worked as computer programmers for DST within the
19 State of California and who did not receive proper meal breaks as provided by
20 law.

21 12. Plaintiff proposes the following Class which will be referred to as the "California
22 Pay Stub Class:"

23 All person who, from three years prior to the commencement of this action up
24 to the time of judgment, worked as computer programmers for DST within the
25 State of California and who did not have all the information required by Labor
26 Code §226(a) printed on their pay check stubs.

27 13. Plaintiff proposes the following Class which will be referred to as the "California
28 Waiting Time Class:"

1 All person who, from three years prior to the commencement of this action up
2 to the time of judgment, worked as computer programmers for DST within the
3 State of California, who were also members of either the California Overtime
4 Class, or the California Meal Break Class, who no longer work for DST, and
5 who were not paid all of their compensation for overtime or meal breaks upon
6 termination of their employment.

7 14. Plaintiff proposes the following Class which will be referred to as the "California
8 Unfair Competition Class:"

9 All person who, from four years prior to the commencement of this action up
10 to the time of judgment, worked as computer programmers for DST within the
11 State of California, who were not paid proper overtime wages or were not
12 provided proper meal breaks.

13 15. This action has been brought and may properly be maintained as a class action under
14 the provisions of §382 of the Code of Civil Procedure because there is a well-defined community
15 of interest in the litigation and the proposed class is easily ascertainable.

16 16. A Class Action is a superior method for bringing this action in that there is a well
17 defined community of interest in the questions of law and fact. Questions of law and fact common
18 to the class action include, but are not limited to:

- 19 a. Whether DST failed and continues to fail to pay a proper overtime rate.
- 20 b. Whether DST failed to properly track all hours worked by Plaintiffs.
- 21 c. Whether DST failed and continues to fail to allow and properly track meal
22 breaks taken by employees.
- 23 d. Whether DST's pay check stubs comply with Labor Code §226 and whether
24 employees would suffer injury in that stubs do not show the number of hours
25 worked by the employees, thus requiring them to keep track of their own hours.
- 26 e. Whether DST willfully refused and continues to refuse to pay employees whose
27 employment with DST has been terminated all of their wages upon termination.

28 17. Plaintiff and the Class Action Plaintiffs are similarly situated, have substantially

1 similar job duties, have substantially similar pay provisions, and are all subject to Defendants'
2 illegal labor violations including refusing to pay proper overtime, refusing to properly pay for
3 missed meal breaks, refusing to provide adequate pay stubs and refusing to pay employees all of
4 their wages upon termination. The claims of the named Plaintiff are typical of those of the class
5 and plaintiff will fairly and adequately represent the interests of the class.

6 18. The persons of this class of are so numerous that the joinder of all such persons is
7 impracticable and that disposition of their claims in a class action rather than in individual actions
8 will benefit the parties and the court. While the precise number of proposed class members has not
9 yet been determined at this time, Plaintiff is informed and believes that Defendants currently
10 employ, and during the relevant time periods employed, over 200 computer programmers within
11 the State of California.

12 19. Class action treatment will allow those similarly situated person to litigate their
13 claims in the manner that is most efficient and economical for the parties and the judicial system.
14 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
15 action that would preclude its maintenance as a class action.

16 20. In the event that the Court determines at the notice stage or anytime thereafter that
17 all plaintiffs and members of the class action, are not "similarly situated," the definition may be
18 modified or narrowed, and/or appropriate subclasses may be established based on business unit or
19 otherwise.

20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO PAY OVERTIME COMPENSATION UNDER CALIFORNIA INDUSTRIAL**
22 **WELFARE COMMISSION ORDERS AND CALIFORNIA LABOR CODE**
23 **(AGAINST ALL DEFENDANTS)**

24 21. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 20. This cause
25 of action is brought against all Defendants jointly and individually.

26 22. This cause of action is brought individually by Plaintiff MUIR and on behalf of all
27 similarly situated employees as defined in the California Overtime Class.

28 23. Pursuant to Industrial Welfare Commission Order No. 4-2001, California Code of

1 Regulations, Title 8, §11040, for the period of Plaintiffs' employment, Defendants were required to
2 compensate Plaintiffs for all overtime, which is calculated at one and one-half (1 ½) times the
3 regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week,
4 and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a day
5 of hours worked in excess of eight (8) on the seventh consecutive work day in a week.

6 24. Plaintiff MUIR and all members of the class worked more than eight (8) hours in a
7 single workday or forty (40) hours in a single workweek on numerous occasions.

8 25. Plaintiffs were non-exempt employees and entitled to the above overtime premiums.
9 Defendants failed to compensate Plaintiffs for all overtime premiums.

10 26. As a proximate result of Defendants' violations, Plaintiffs have been damaged in an
11 amount in excess of \$25,000 and subject to proof at time of trial.

12 27. Plaintiff MUIR is informed and believes that all class members of the California
13 Overtime Class were similarly not paid proper overtime under Industrial Welfare Commission
14 Order No. 4-2001.

15 28. Pursuant to Labor Code §§218.5, 218.6, 510, 1194 and California Code of
16 Regulations, Title 8, §§11040, Plaintiff MUIR and class members are entitled to recover damages
17 for the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
18 reasonable attorney's fees and costs of suit.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PROVIDE ADEQUATE MEAL PERIODS UNDER**
21 **CALIFORNIA INDUSTRIAL WELFARE COMMISSION ORDERS**

22 **AND CALIFORNIA LABOR CODE SECTION 512**

23 **(AGAINST ALL DEFENDANTS)**

24 29. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 28. This cause
25 of action is brought against all Defendants jointly and individually.

26 30. This cause of action is brought individually by Plaintiff MUIR and on behalf of all
27 similarly situated employees as defined in the California Meal Break Class.

28 31. Pursuant to Industrial Welfare Commission Order No. 4-2001, California Code of

1 Regulations, Title 8, §11040, for the period of Plaintiffs' employment, Defendants were required to
2 provide a thirty (30) minute meal period for any person working more than five (5) hours in a day.

3 32. Defendant failed to provide Plaintiffs a meal period for numerous days worked.

4 33. Plaintiff MUIR is informed and believes that all class members of the California
5 Meal Break Class were similarly not provided proper meal breaks under Industrial Welfare
6 Commission Order No. 4-2001 and Industrial Welfare Commission Order No. 4-2001.

7 34. Pursuant to Labor Code §512 and California Code of Regulations, Title 8, §§11040,
8 Plaintiff MUIR and class members are entitled to recover one (1) hours of pay at the regular rate of
9 compensation for each workday that the meal period was not provided.

10 35. Plaintiff MUIR and class members pray for damages for missed meals in an amount
11 subject to proof at time of trial.

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO ITEMIZE WAGE STATEMENTS AS REQUIRED**

14 **UNDER LABOR CODE SECTION 226**

15 **(AGAINST ALL DEFENDANTS)**

16 36. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 35. This cause
17 of action is brought against all Defendants jointly and individually.

18 37. This cause of action is brought individually by Plaintiff MUIR and on behalf of all
19 similarly situated employees as defined in the California Pay Stub Class.

20 38. Pursuant to Labor Code §226, every employer must furnish each employee an
21 itemized statement of wages and deductions at the time of payment of wages.

22 39. Defendants furnished Plaintiffs pay stubs that did not accurately reflect the correct
23 hourly rates paid to the employee and did not reflect the proper total number of hours worked.

24 40. Plaintiffs suffered injury in their inability to verify their own total hours worked.

25 41. Plaintiff MUIR is informed and believes that all class members of the California Pay
26 Stub Class were similarly injured.

27 42. Pursuant to Labor Code §226(e) and (g), Plaintiffs prays for judgment against
28 Defendants in the amount subject to proof at trial plus costs and attorney fees.

1 **FOURTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES UNDER LABOR CODE SECTION 203**

3 **(AGAINST ALL DEFENDANTS)**

4 43. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 42. This cause
5 of action is brought against all Defendants jointly and individually.

6 44. This cause of action is brought individually by Plaintiff MUIR and on behalf of all
7 similarly situated employees as defined in the California Waiting Time Class.

8 45. Defendants willfully refused and continues to refuse to pay Plaintiff MUIR and class
9 members their unpaid wages as required by Labor Code §203. Defendants know that the pay is due
10 and are refusing to pay it.

11 46. Plaintiff MUIR is informed and believes that all class members of the California
12 Waiting Time Class were similarly injured.

13 47. Plaintiff MUIR and class members requests restitution and penalties as provided by
14 Labor Code §203.

15 **FIFTH CAUSE OF ACTION**

16 **VIOLATIONS OF CALIFORNIA BUSINESS AND PROFESSIONS**

17 **CODE SECTION 17200**

18 **(AGAINST ALL DEFENDANTS)**

19 48. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 47. This cause
20 of action is brought against all Defendants jointly and individually.

21 49. This cause of action is brought individually by Plaintiff MUIR and on behalf of all
22 similarly situated employees as defined in the California Unfair Competition Class.

23 50. By failing to pay overtime premiums on any wages, Defendants' acts constitute
24 unfair and unlawful business practices under Business and Professions Code §17200, et. seq.

25 51. By failing to provided adequate meal breaks, Defendants' acts constitute unfair and
26 unlawful business practices under Business and Professions Code §17200, et. seq.

27 52. Plaintiff MUIR and class members pray for relief under this Cause of Action an
28 amount subject to proof at time of trial, costs and attorneys fees.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Plaintiffs pray for the following relief:

1. Damages for overtime not paid to Plaintiff MUIR and class members in an amount in excess of \$25,000 and subject to proof at trial.
2. Damages for meal premiums not paid to Plaintiff MUIR and class members in an amount subject to proof at trial.
3. For damages and penalties under Labor Code §226 for Plaintiff MUIR and class members in an amount subject to proof at trial.
4. For penalties and damages pursuant to Labor Code § 203 for Plaintiff MUIR and class members in an amount equal to each of their final daily wages time thirty (30).
5. For restitution and disgorgement for all unfair business practices against Plaintiff MUIR and class members in an amount subject to proof at trial.
6. For prejudgment and post judgment interest.
7. An order enjoining Defendants and their agents from failing to provide Plaintiffs with proper overtime, meal breaks, and pay check stubs.
8. Cost of suit.
9. Attorneys' fees.
10. For such other and further relief as the court may deem proper.

DATED: November 7, 2007

LAW OFFICES OF MICHAEL TRACY

By:


 MICHAEL TRACY, Attorney for Plaintiff
 MICHAEL MUIR

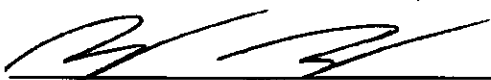
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATED: November 7, 2007

LAW OFFICES OF MICHAEL TRACY

By:


 MICHAEL TRACY, Attorney for Plaintiff
 MICHAEL MUIR