

**FILED**

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CONNIE MAZZEI  
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CARMEN B. OROZCO

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9 persons similarly situated

CASE PROGRESS CONFERENCE

DATE: 6.10.14

TIME: 9:00 AM

COURTROOM: 14

SUPERIOR COURT OF CALIFORNIA

MONTEREY <sup>re</sup>

COUNTY OF MONTEREY, SALINAS COURTHOUSE

11 KATHYA TAPIA, on behalf of herself and on  
12 behalf of a Class of all other persons similarly  
13 situated

14 Plaintiff,

15 vs.

16 STERLING JEWELERS INC., an unknown  
17 business entity; SIGNET JEWELERS LTD, an  
18 unknown business entity, and DOES 1 through  
19 100, inclusive,

20 Defendants.

Case No.: M125887

CLASS ACTION

Assigned For All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. FAILURE TO PAY OVERTIME COMPENSATION;
2. FAILURE TO PROVIDE MEAL PERIODS;
3. FAILURE TO PROVIDE REST PERIODS;
4. FAILURE TO PROVIDE ITEMIZED STATEMENTS;
5. FAILURE TO PAY WAGES TWICE MONTHLY;
6. FAILURE TO PAY WAGES FOR HOURS WORKED;
7. FAILURE TO COMPLY WITH WRITTEN REQUEST TO INSPECT OR COPY RECORDS;
8. FAILURE TO PAY WAGES UPON TERMINATION OF EMPLOYMENT;
9. UNLAWFUL COMPETITION AND UNLAWFUL BUSINESS PRACTICES; and
10. VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT

1 All allegations in this Complaint are based upon information and belief except for those allegations,  
2 which pertain to the PLAINTIFF and her counsel. Each allegation in this Complaint either has evidentiary  
3 support or is likely to have evidentiary support after discovery.

4 **1. INTRODUCTION**

5 1. This is a class action, pursuant to California Code of Civil Procedure § 382, on behalf of  
6 Plaintiff and all non-exempt employees employed by, or formerly employed by, STERLING JEWELERS  
7 INC., an unknown business entity, SIGNET JEWELERS LTD, an unknown business entity, and DOES 1  
8 through 100 (collectively “Defendants”), within the State of California. The non-exempt employees  
9 employed by, or formerly employed by, Defendants within the State of California are hereinafter referred to  
10 individually as “Class Members” and collectively as the “Class” or “Classes.”

11 2. For at least four years prior to the filing of this action and through to the present (“Relevant  
12 Time Period”), Defendants consistently maintained and enforced against Defendants’ non-exempt  
13 employees, among others, the following unlawful practices and policies, in violation of California state  
14 wage and hour laws:

- 15 (a) During the Relevant Time Period, Defendant has had a consistent policy of requiring  
16 employees to work more than eight (8) hours in any given day and/or more than forty  
17 (40) hours in any given week, and not pay overtime compensation pursuant to  
18 applicable California Labor Code requirements;
- 19 (b) During the Relevant Time Period, Defendant has had a consistent policy of requiring  
20 Class Members within the State of California, including Plaintiff, to work at least five  
21 (5) hours without a lawful meal period and failing to pay such employees one (1)  
22 hour of pay at the employees’ regular rate of compensation for each workday that the  
23 meal period is not provided, as required by California state wage and hour laws.
- 24 (c) During the Relevant Time Period, Defendants have had a consistent policy of failing  
25 to provide Class Members within the State of California, including Plaintiff, rest  
26 periods of at least (10) minutes per three and a half (3.5) hours worked or major  
27 fraction thereof and failing to pay such employees one (1) hour of pay at the  
28

1 employees regular rate of compensation for each workday that the rest period is not  
2 provided, as required by California state wage and hour laws.

- 3 (d) With respect to Class Members who either were discharged, laid off, or resigned,  
4 during the Relevant Time Period, Defendants failed to pay them in accordance with  
5 the requirements of Labor Code §§ 201, 202, 203;
- 6 (e) During the Relevant Time Period, Defendants failed to maintain accurate records of  
7 Class Members' earned wages and work periods as evidenced by Defendants' failure  
8 to keep adequate records of meal periods; and
- 9 (f) During the Relevant Time Period, Defendants failed to reimburse employees for all  
10 necessary business expenditures such as use of their laptop computers and other  
11 required work related expenses as required by Labor Code §§ 2800 through 2802.

12 3. Plaintiff, on behalf of herself and all other Class Members, brings this action pursuant to  
13 California Labor Code §§ 201, 202, 203, 218, 218.6, 226, 226.7, 512, 1194, 1199, 2802, and California  
14 Code of Regulations, Title 8, section 11000 *et seq.*, seeking unpaid overtime, meal and rest period  
15 compensation, penalties, injunctive, and other equitable relief, and reasonable attorneys' fees and costs.

16 4. Plaintiff, on behalf of herself and all Classes, pursuant to Business and Professions Code  
17 §§ 17200-17208, also seeks injunctive relief and restitution for the unfair, unlawful, or fraudulent practices  
18 alleged in this Complaint.

19 **2. PARTIES**

20 **A. Plaintiff**

21 5. Plaintiff KATHYA TAPIA was at all relevant times and is a resident of California. At  
22 relevant times herein, she was employed by Defendants as a non-exempt employee and worked more than  
23 eight (8) hours a day without being paid all wages due. Defendants failed to provide Plaintiff and the  
24 Class with lawful meal and rest periods, as employees were almost always scheduled to work alone, and  
25 thus, had no opportunity to take an uninterrupted rest period as required by the Labor Code. Further,  
26 Defendants refused to comply with a lawful request for personnel records under California law. Finally,  
27 Defendants failed to record accurate time as well as utilized unlawful pay stubs that prevented Plaintiff and  
28 the class from learning of these unlawful pay practices.

1           **B.     Defendants**

2           6.     STERLING JEWELERS INC., a wholly owned subsidiary of Defendant SIGNET  
3 JEWELERS LTD, an unknown business entity and DOES 1 through 100 (“Sterling Jewelers” and/or  
4 “Defendant(s)”) are unknown business entities within the State of California. Sterling Jewelers is the  
5 largest specialty retail jeweler in the United States with over 1,300 stores located in 50 States, including the  
6 nationally recognized Kay Jewelers and Jared the Galleria of Jewelry, and operates under the additional  
7 brand names of Goodman Jewelers, LeRoys Jewelers, J.B. Robinson Jewelers, Marks & Morgan Jewelers,  
8 Osterman Jewelers, Rogers Jewelers, Belden Jewelers, Shaws Jewelers, Friedlander Jewelers, Weisfield  
9 Jewelers. Sterling Jewelers has multiple locations throughout the State of California. See  
10 <http://www.sterlingjewelers.com/> and <http://www.signetjewelers.com/> .

11           7.     According to its website, Sterling Jewelers “appreciates[s] excellence, and it shows in the  
12 many ways [they] reward [their] invaluable Team Members.” Unfortunately, this translates into employees  
13 being subjected to Sterling Jewelers’ egregious Labor Code violations.

14           8.     The true names and capacities, whether individual, corporate, associate, or otherwise, of  
15 Defendants sued herein as DOES 1 to 100, inclusive, are currently unknown to Plaintiff, who therefore sues  
16 Defendants by such fictitious names under California Code of Civil Procedure § 474. Plaintiff is informed  
17 and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally  
18 responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to  
19 amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as  
20 DOES when such identities become known.

21           9.     Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in  
22 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business  
23 plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the  
24 other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of  
25 Plaintiff and the Classes.

26           10.    Venue as to each Defendant is proper in this judicial district, pursuant to California Code of  
27 Civil Procedure § 395. On information and belief, Defendants operate and are doing business as  
28 STERLING JEWELERS INC. and other brands in California and are doing business in Monterey County,

1 Los Angeles County, Orange County, and each Defendant is within the jurisdiction of this Court for service  
2 of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly  
3 situated within the State of California. Defendant employs numerous Class Members in Monterey County.

4 **3. FACTUAL BACKGROUND**

5 11. Plaintiff and the Class Members are, and at all times pertinent hereto have been, non-exempt  
6 employees within the meaning of the California Labor Code and the implementing rules and regulations of  
7 IWC California Wage Orders. Defendant hires hourly employees who work in non-exempt positions in the  
8 State of California.

9 12. Plaintiff and the Defendants' non-exempt employees were not properly paid for all wages  
10 earned and for all wages when working more than eight (8) hours in any given day and/or more than forty  
11 (40) hours in any given week.

12 13. Plaintiff and the Defendants' non-exempt employees were not provided lawful meal periods,  
13 and were not provided with one (1) hour's wages in lieu thereof, in one or more of the following manners:

14 (a) Class Members were not provided full thirty-minute duty free meal periods for work  
15 days in excess of five (5) hours and were not compensated one (1) hour's wages in  
16 lieu thereof, all in violation of, among others, Labor Code §§ 226.7, 512, and the  
17 applicable Industrial Welfare Commission Wage Order(s);

18 (b) Class Members were not provided a second full thirty-minute duty free meal periods  
19 for work days in excess of ten (10) hours;

20 (c) Class Members were required to work through at least part of their daily meal  
21 period(s); and

22 (d) Class Members were restricted in their ability to take a full thirty-minute meal  
23 period.

24 14. Plaintiff and the Defendants' non-exempt employees were not provided lawful rest periods,  
25 and were not provided with one (1) hour's wages in lieu thereof, in one or more of the following manners:

26 (a) Class Members were required to work without being provided a minimum ten  
27 minute rest period for every three and a half (3.5) hours or major fraction thereof  
28

1 worked and were not compensated one (1) hour of pay at their regular rate of  
2 compensation for each workday that a rest period was not provided; and

3 (b) Class Members were restricted in their ability to take their full ten (10) minutes net  
4 rest time.

5 15. As a result of these illegal policies and practices, Defendants engaged in and enforced the  
6 following additional unlawful practices and policies against Plaintiffs and the Class Members they seek to  
7 represent:

8 (a) failing to pay Class Members who either were discharged, laid off, or resigned in  
9 accordance with the requirements of Labor Code §§ 201, 202, 203;

10 (b) failing to pay Class Members and

11 (c) failing to maintain accurate records of Class Members' earned wages and meal  
12 periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the  
13 applicable IWC Wage Orders.

14 16. Defendants' non-exempt employees spend the majority of their time doing routine non-  
15 discretionary tasks. These duties occupy more than 50% of their work time.

16 17. At relevant times herein, the named Plaintiff and the Class Members were employed by  
17 Defendants and were paid, on information and belief, predominantly on an hourly basis.

18 18. Plaintiff and the Defendants' employees were not paid for all hours worked, whether regular  
19 time or overtime, and/or at many times would work overtime hours but would be forced to work "off the  
20 clock" to finish production and clean up related tasks and were only paid for scheduled work hours and not  
21 for all hours actually worked. Said overtime and regular hours were worked by Plaintiff and the Class and  
22 not paid and Defendants intentionally failed to pay for those hours even though they were actually worked  
23 and recorded on their time keeping system.

24 19. On information and belief, Plaintiff alleges that Defendants' actions as described throughout  
25 this Complaint were willful.

26 20. Defendants have made it difficult to account with precision for the unlawfully withheld meal  
27 and rest period compensation owed to Defendants' non-exempt employees, including Plaintiff, during the  
28 liability period, because they did not implement and preserve a record-keeping method as required for non-

1 exempt employees by California Labor Code §§ 226, 1174(d), and section 4 of the California Wage Orders.  
2 Defendants have failed to comply with Labor Code § 226(a) by accurately reporting total hours worked by  
3 Plaintiff and the Class Members. Plaintiff and Class Members are therefore entitled to penalties not to  
4 exceed \$4,000 for each employee pursuant to Labor Code § 226(b).

5 21. Defendants have failed to comply with section 4 of the California IWC Wage Orders by  
6 failing to maintain time records showing when the employee begins and ends each work period, meal  
7 periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage  
8 statements all deductions from payment of wages and accurately reporting total hours worked by the Class  
9 Members.

10 **4. CLASS ALLEGATIONS**

11 22. Plaintiff brings this action on behalf of herself and all others similarly situated as a class  
12 action pursuant to California Code of Civil Procedure § 382. Plaintiff seeks to represent a Class composed  
13 of and defined as:

14 **All persons who are employed or have been employed by Defendant in the State of California**  
15 **who, for the four years prior to the filing of this class action to the present, have worked as**  
16 **non-exempt employees.**

17 Further, Plaintiff seeks to represent the following subclasses composed of and defined as  
18 follows:

- 19 (a) **Subclass 1. Overtime Subclass.** All persons who are employed  
20 or have been employed by Defendants in the State of California  
21 who, for the four years prior to the filing of this class action to the  
22 present, have worked as non-exempt employees and were not paid  
23 overtime for hours worked beyond eight (8) hours in a single day  
24 or for hours worked beyond 40 in a single week pursuant to Labor  
25 Code §§ 510, 511, 1194 and 1198.  
26 (b) **Subclass 2.1 Meal Break Subclass 1.** All persons who are  
27 employed or have been employed by Defendants in the State of  
28 California who, for the four years prior to the filing of this class  
action to the present, have worked as non-exempt employees and  
have not been provided a meal period for every five (5) hours or  
major fraction thereof worked per day, and were not provided one  
(1) hour's pay for each day on which such meal period was not  
provided pursuant to Labor Code § 226.7 and § 512.

- 1 (c) **Subclass 2.2 Meal Break Subclass 2.** All persons who are  
2 employed or have been employed by Defendants in the State of  
3 California who, for the four years prior to the filing of this class  
4 action to the present, have worked as non-exempt employees and  
5 who worked over ten (10) hours in a shift and did not receive a  
6 second meal period; and were not provided one (1) hour's pay for  
7 each day on which such meal period was not provided pursuant to  
8 Labor Code § 226.7 and § 512.
- 9 (d) **Subclass 3. Rest Period Subclass.** All persons who are  
10 employed or have been employed by Defendants in the State of  
11 California who, for the four years prior to the filing of this class  
12 action to the present, have worked as non-exempt employees and  
13 have not been provided a rest period for every three and a half (3.5)  
14 hours or major fraction thereof worked per day, and were not  
15 provided compensation of one (1) hour's pay for each day on  
16 which such rest period was not provided pursuant to Labor Code §  
17 226.7 and § 512.
- 18 (e) **Subclass 4. Paystub Subclass.** All persons who are employed or  
19 have been employed by Defendants in the State of California who,  
20 for the four years prior to the filing of this class action to the  
21 present, have worked as non-exempt employees and were not  
22 provided an itemized statement accurately showing total hours  
23 worked, the applicable hourly rates in effect during each pay  
24 period and the corresponding hours worked at each rate pursuant to  
25 Labor Code § 226.
- 26 (f) **Subclass 5. Wages Twice Monthly Subclass.** All persons who  
27 are employed or have been employed by Defendants in the State of  
28 California who, for the four years prior to the filing of this class  
action to the present, have worked as non-exempt employees and  
were not provided all wages twice monthly pursuant to Labor  
Code § 204.
- (g) **Subclass 6. Wage Payment Subclass.** All persons who are  
employed or have been employed by Defendants in the State of  
California who, for the four years prior to the filing of this class  
action to the present, have worked as non-exempt employees and  
were not provided all straight time wages earned pursuant to the  
Labor Code and applicable IWC Wage Orders.
- (h) **Subclass 6. Personnel Records Subclass.** All persons who are  
employed or have been employed by Defendants in the State of  
California who, for the four years prior to the filing of this class  
action to the present and were not provided a copy of their  
employment records after a lawful request pursuant to Labor Code  
§§ 226, 432 and 1198.5.
- (i) **Subclass 7. Termination Pay Subclass.** All persons who are  
employed or have been employed by Defendants in the State of  
California who, for the four years prior to the filing of this class



1 action to the present, have worked as non-exempt employees and  
2 were not provided all wages due upon termination or resignation  
pursuant to Labor Code §§ 200 through 203.

3 (j) **Subclass 8. B&P Code § 17200 Subclass.** All persons who are  
4 employed or have been employed by Defendants in the State of  
5 California who, have worked as non-exempt employees and who  
6 were subjected to Defendant's unlawful, unfair or fraudulent  
7 business acts or practices in the form of Labor Code violations  
8 regarding overtime, meal periods, rest periods, expense  
9 reimbursement or minimum wages and/or waiting time penalties.

10 23. Plaintiff reserves the right under Rule 1855(b) of the California Rules of Court, to amend or  
11 modify the class descriptions with greater specificity or to provide further division into subclasses or  
12 limitation to particular issues.

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

16 **A. Numerosity**

17 25. The potential members of each Class as defined are so numerous that joinder of all the  
18 members of the Class is impracticable. Plaintiff estimates there are more than **2,000** class members. While  
19 the precise number of Class Members has not been determined at this time, Plaintiff is informed and  
20 believes that Defendants currently employ, and during the relevant time periods employed, thousands of  
21 employees in positions as Defendants' non-exempt employees in California, who are or have been affected  
22 by Defendants' unlawful practices as alleged herein.

23 26. Employee turnover during the relevant time period will increase this number substantially.  
24 Upon information and belief, Plaintiff alleges Defendants' employment records would provide information  
25 as to the number and location of all Class Members. Joinder of all members of the proposed Classes is not  
26 practicable.

27 **B. Commonality**

28 27. There are questions of law and fact common to each Class predominating over any  
questions affecting only individual Class Members. These common questions of law and fact include,  
without limitation:

- 1 (a) Whether Defendants violated the Labor Code, the applicable IWC Wage Orders,  
2 and Cal. Code Regs., Title 8, section 11000 *et seq.* by failing to pay overtime after  
3 eight (8) hours of work in one day or forty (40) hours of work in one work week;
- 4 (b) Whether Defendants violated Labor Code §§ 226.7 and 512, section 4 of the IWC  
5 Wage Orders, and Cal. Code Regs., Title 8, section 11000, 11040 *et seq.* by failing  
6 to provide a meal period to non-exempt employees on days they worked work  
7 periods in excess of five (5) hours and failing to compensate said employees one (1)  
8 hour's wages in lieu of meal periods;
- 9 (c) Whether Defendants violated Labor Code § 226.7 and the IWC Wage Orders, and  
10 Cal. Code Regs., Title 8, section 11000 *et seq.* by failing to provide daily ten (10)  
11 minute rest periods to non-exempt employees for every three and a half (3.5) hours  
12 and/or 7 hours or major fraction thereof worked and failing to compensate said  
13 employees one (1) hour's wages in lieu of rest periods;
- 14 (d) Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage  
15 Orders by failing to maintain accurate records of Class Members' earned wages and  
16 work periods;
- 17 (e) Whether Defendants violated Labor Code § 1194 by failing to compensate all  
18 employees during the relevant time period for all hours worked, whether regular or  
19 overtime;
- 20 (f) Whether Defendants failed to comply with written requests to inspect of copy  
21 records during the Relevant Time Period pursuant to Labor Code §§ 226, 432 and  
22 1198.5;
- 23 (g) Whether Defendants violated Business and Professions Code § 17200 *et seq.* by  
24 failing to provide meal and rest periods without compensating non-exempt  
25 employees one (1) hour's pay for every day such periods were not provided, failing  
26 to pay compensation for denied meal and rest periods due and owing at the time a  
27 Class Member's employment with Defendants terminated, and failing to keep  
28 accurate records;

- 1 (h) Whether Defendants violated § 17200 *et seq.* of the Business and Professions Code,  
2 Labor Code §§ 201-203, 226.7, 512, 1174, and applicable IWC Wage Orders, which  
3 constitutes a violation of fundamental public policy;
- 4 (i) Whether Plaintiff and the Class Members are entitled to equitable relief pursuant to  
5 Business and Professions Code § 17200 *et seq.*; and
- 6 (j) Whether Plaintiff and the Class Members are entitled to penalties pursuant to Labor  
7 Code §§ 2698 and 2699, affectionately known as “PAGA penalties.”

8 There are common answers to these questions which further demonstrate that class treatment in  
9 appropriate in this case.

10 **C. Typicality**

11 28. The claims of the named Plaintiff are typical of the claims of the Class Members. Plaintiff  
12 and all members of each Class sustained injuries and damages arising out of and caused by Defendants’  
13 common course of conduct in violation of California laws, regulations, and statutes as alleged herein.

14 **D. Adequacy of Representation**

15 29. Plaintiff will fairly and adequately represent and protect the interests of the members of each  
16 Class. Counsels who represent Plaintiff are competent and highly experienced in litigating large employment  
17 class actions.

18 **E. Superiority of Class Action**

19 30. A class action is superior to other available means for the fair and efficient adjudication of  
20 this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact  
21 common to each Class predominate over any questions affecting only individual members of the Class.  
22 Each member of the Class has been damaged and is entitled to recovery by reason of Defendants’ unlawful  
23 policies and practices alleged in the Complaint.

24 31. Class action treatment will allow those similarly situated persons to litigate their claims in  
25 the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware  
26 of any difficulties that are likely to be encountered in the management of this action that would preclude its  
27 maintenance as a class action.

28 32. Class Plaintiff contemplates the eventual issuance of notice to the proposed Class Members

1 of each Plaintiff Classes that would set forth the subject and nature of the instant action. The Defendants'  
2 own business records can be utilized for assistance in the preparation and issuance of the contemplated  
3 notices. To the extent that any further notice is required additional media and/or mailings can be used.

4 **5. DELAYED DISCOVERY**

5 33. Defendants, as a prospective and actual employer of non-exempt, hourly employees, had a  
6 special fiduciary duty to disclose to prospective Plaintiff Classes the true facts surrounding Defendants' pay  
7 practices, policies and working conditions imposed upon non-exempt, hourly employees as well as the effect  
8 of any alleged arbitration agreements that may have been forced upon them. In addition, Defendants knew  
9 that it possessed special knowledge about its pay practices and policies, most notably intentionally refusing to  
10 pay overtime and straight time hours actually worked and recorded on Defendants' punch records and the  
11 consequence of the alleged arbitration agreements on the employees and class as a whole.

12 34. Plaintiff and Plaintiff Classes did not discover the fact that they were entitled to all pay under  
13 the Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about Plaintiffs  
14 and the Class' wavier of their Constitutional rights of trial by jury, right to collectively organize and oppose  
15 unlawful pay practices under California and federal law as well as obtain injunctive relief preventing such  
16 practices from continuing. As a result, the applicable statutes of limitation were tolled until such time as  
17 Plaintiffs discovered their claims.

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME COMPENSATION**

20 **[CALIFORNIA LABOR CODE §§ 1194 and 1198]**

21 **(Against All Defendants)**

22 35. Plaintiff and the Class re-allege and incorporate by reference, the paragraphs previously  
23 alleged in this Complaint.

24 36. This claim is brought by Plaintiff, on behalf of herself and on behalf of the Members of the  
25 Class and the subclasses thereof.

26 37. Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed  
27 more than eight (8) hours in any work day, and/or more than forty (40) hours in any workweek, or work a  
28 seventh (7<sup>th</sup>) day in a work week unless they receive additional compensation beyond their regular wages in

1 amounts specified by law.

2 38. Labor Code § 1194 provides that an employee who has not been paid overtime  
3 compensation as required by Labor Code § 1198 may recover the unpaid balance of the full amount of such  
4 overtime compensation, together with costs of suit, as well as liquidated damages in an amount equal to the  
5 overtime compensation unlawfully withheld, and interest thereon, in a civil action. The action may be  
6 maintained directly against the employer in his name without first filing a claim with the Department of  
7 Labor Standards and Enforcement.

8 39. At all times relevant hereto, IWC Wage Order No. 4-2001 applied, and applies, to Plaintiff's  
9 employment with Defendants.

10 40. At all times relevant hereto, IWC Wage Order No. 4-2001 (3)(A) provides for payment of  
11 overtime wages equal to one and one-half times an employee's regular rate of pay for all hours worked over  
12 eight (8) hours a day and/or forty (40) hours in a work week.

13 41. At all times relevant hereto, IWC Wage Order No. 4-2001 (3)(A) provides for payment of  
14 overtime wage equal to one and one-half (1 ½) times an employee's regular rate of pay for all hours worked  
15 over eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours  
16 on the seventh (7<sup>th</sup>) consecutive day of work in a work week.

17 42. At all times relevant hereto, IWC Wage Order No. 4-2001 (3)(A) provides for payment of  
18 overtime wage equal to double the employee's regular rate of pay for all hours worked over twelve (12)  
19 hours in any workday, and for all hours worked over eight (8) hours on the seventh (7<sup>th</sup>) consecutive day of  
20 work in a work week.

21 43. Defendants, and each of them, have intentionally and improperly changed, adjusted and/or  
22 modified certain employees' hours, including Plaintiff's, to avoid payment of overtime wages and other  
23 benefits in violation of California Code of Regulations and the guidelines set forth by the Division of Labor  
24 Standards and Enforcement.

25 44. At all times relevant hereto, from time to time, Plaintiff and aggrieved employees have  
26 worked more than eight (8) hours in a workday, and/or more than forty (40) hours in a workweek, as  
27 employees of Defendants.

28 45. At all times relevant hereto, from time to time, Plaintiff and aggrieved employees have

1 worked more than twelve (12) hours in a workday, and/or more than eight (8) hours on the seventh (7<sup>th</sup>)  
2 consecutive workday in a workweek, as employees of Defendants.

3 46. At all times relevant hereto, the Defendants, and each of them, failed to pay to Plaintiff and  
4 aggrieved employees overtime compensation for the hours they have worked in excess of the maximum  
5 hours permissible by law as required by Labor Code §§ 1194, 1197 and 1198 and the provisions of IWC  
6 order No. 4-2001, Cal. Code of Regulations Title 8 § 11040.

7 47. By virtue of the Defendants' unlawful failure to pay additional compensation to Plaintiff and  
8 aggrieved employees for overtime hours, Plaintiff and the Class have suffered, and will continue to suffer,  
9 damages in amounts which are presently unknown to Plaintiff, but which exceed the jurisdictional limits of  
10 this Court and which will be ascertained according to proof at trial.

11 48. Plaintiff is informed and believes, and based upon that information and belief allege, that  
12 Defendants, and each of them, knew or should have known that non-exempt, hourly employees did not  
13 qualify as exempt employees and purposely elected not to pay Plaintiff and all other non-exempt, hourly  
14 employees for their overtime labor.

15 49. Defendants, and each of them, acted intentionally, oppressively and maliciously toward  
16 Plaintiff and similarly situated non-exempt, hourly employees with a conscious disregard of the Plaintiff and  
17 the Classes' rights, or the consequences suffered by Plaintiff and the Classes, with the intent of depriving the  
18 Plaintiff and Plaintiff Classes of property and legal rights and otherwise causing Plaintiff and the Class  
19 injury.

20 50. Plaintiff individually, and on behalf of members of the Plaintiff Classes, request recovery of  
21 overtime compensation according to proof, interest, attorneys' fees and costs pursuant to Labor Code §§  
22 218.5 and 1194(a), as well as the assessment of any statutory penalties against these Defendants, and each of  
23 them, and any additional sums as provided by the Labor Code and/or other statutes.

24 51. Further, Plaintiff and the Class are entitled to seek and recover reasonable attorneys' fees  
25 and costs pursuant to Labor Code §§ 210 and 1194.

**SECOND CAUSE OF ACTION**  
**FAILURE TO PROVIDE MEAL PERIODS**  
**[CALIFORNIA LABOR CODE §§ 226.7 and 512, and**  
**CALIFORNIA CODE OF REGULATION, Title 8, §11040]**  
**(Against All Defendants)**

52. Plaintiff and the Members of the Class (and subclasses) re-allege and incorporate by reference, as though fully set forth herein, the paragraphs previously alleged in this Complaint.

53. This claim is brought by Plaintiff, on behalf of herself and on behalf of the Class and the subclasses thereof.

54. Labor Code §§ 226.7 and 512 and Cal. Code Reg., Title 8, § 11040(11)(A), provides that no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes.

55. Labor Code § 226.7 and Cal. Code of Reg., Title 8, § 11040(11)(D), provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

56. Defendants failed to provide Plaintiff and the Class with meal periods, as employees were always scheduled to work alone, and thus, had no opportunity to take an uninterrupted meal period as required by the Labor Code.

57. Defendants, and each of them, have intentionally and improperly denied meal periods to Plaintiff and the Class in violation of Labor Code §§ 226.7 and 512 and Cal. Code Reg., Title 8, § 11040(11)(A) and other regulations and statutes.

58. At all times relevant hereto, Plaintiff and the Class have worked more than five (5) hours in a workday.

59. At all times relevant hereto, the Defendants, and each of them, failed to provide meal periods as required by Labor Code §§ 226.7 and 512 and Cal. Code Reg., Title 8, §11040(11)(A).

60. By virtue of the Defendants' unlawful failure to provide meal periods to Plaintiff and the Plaintiff Classes, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts

1 which are presently unknown to Plaintiff but which exceed the jurisdictional limits of this Court and which  
2 will be ascertained according to proof at trial.

3 61. Plaintiff and the Class are informed and believe, and based upon that information and belief  
4 allege, that Defendants, and each of them, purposely elected not to provide meal periods.

5 Defendants, and each of them, acted intentionally, oppressively and maliciously toward Plaintiff and  
6 the Class with a conscious disregard of their rights, or the consequences to Plaintiff and the Class, with the  
7 intent of depriving them of property and legal rights and otherwise causing Plaintiff and the Class injury.  
8 Plaintiff, individually, and on behalf of the Class, requests recovery of meal period compensation pursuant  
9 to Labor Code §§ 226.7 and Cal. Code Reg., Title 8, §11040(11)(B), as well as the assessment of any  
10 statutory penalties against these Defendants, and each of them, in a sum as provided by the Labor Code and  
11 other statutes.

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO PROVIDE REST PERIODS**

14 **[CALIFORNIA LABOR CODE §§ 226.7 and 512, and**  
15 **CALIFORNIA CODE OF REGULATION, Title 8, §11040]**

16 **(Against All Defendants)**

17 62. Plaintiff and the Members of the Class (and subclasses) re-allege and incorporate by  
18 reference the paragraphs previously alleged in this Complaint.

19 63. Labor Code §§ 226.7 and Cal. Code Reg., Title 8, § 11040(12)(A), provides that employers  
20 authorize and permit all employees to take rest periods at the rate of ten (10) minutes net rest time per three  
21 and a half (3.5) work hours.

22 64. Labor Code §§ 226.7 and Cal. Code Reg., Title 8, § 11040(12)(B), provides that if an  
23 employer fails to provide an employee rest periods in accordance with this section, the employer shall pay  
24 the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the  
25 rest period is not provided.

26 65. Defendants, and each of them, have intentionally and improperly denied rest periods to  
27 Plaintiff and the Class in violation of Labor Code §§ 226.7 and 512 and Cal. Code Reg., Title 8, §  
28 11040(12)(A). Defendants failed to provide Plaintiff and the Class with rest periods, as employees were



1 always scheduled to work alone, and thus, had no opportunity to take an uninterrupted rest period as  
2 required by the Labor Code.

3 66. At all times relevant hereto, Plaintiff and the Class, have worked more than three and a half  
4 hours in a workday.

5 67. At all times relevant hereto, the Defendants, and each of them, failed to provide rest periods  
6 as required by Labor Code §§ 226.7 and Cal. Code Reg., Title 8, § 11040(12)(A).

7 68. By virtue of the Defendants' unlawful failure to provide rest periods to the Plaintiff and the  
8 Class, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts which are  
9 presently unknown to the Plaintiff and the Class but which exceed the jurisdictional limits of this Court and  
10 which will be ascertained according to proof at trial.

11 69. Plaintiff and the Class are informed and believe, and based upon that information and belief  
12 allege, that Defendants, and each of them, knew or should have known that Plaintiff was entitled to rest  
13 periods and purposely elected not to provide rest periods.

14 70. Defendants, and each of them, acted intentionally, oppressively and maliciously toward  
15 Plaintiff and the Class with a conscious disregard of their rights, or the consequences to Plaintiff and the  
16 Plaintiff Classes, with the intent of depriving Plaintiff and the Class of property and legal rights and  
17 otherwise causing the Plaintiff and the Class injury.

18 71. Plaintiff, individually, and on behalf of employees similarly situated, requests recovery of  
19 rest period compensation pursuant to Labor Code §§ 226.7 and Cal. Code Reg., Title 8, § 11040(12)(B), as  
20 well as the assessment of any statutory penalties against these Defendants, and each of them, in a sum as  
21 provided by the Labor Code and/or other statutes.

22 **FOURTH CAUSE OF ACTION**

23 **FAILURE TO FURNISH ITEMIZED STATEMENTS**

24 **[CALIFORNIA LABOR CODE § 226]**

25 **(Against All Defendants)**

26 72. Plaintiff and the Members of the Class (and subclasses) re-allege and incorporate by  
27 reference, as though fully set forth herein, the paragraphs previously alleged in this Complaint.

28 73. This claim is brought by Plaintiff, on behalf of herself and on behalf of the Class and the

1 subclasses thereof.

2 74. Throughout the Class Period, Defendant intentionally failed to furnish to Plaintiff and the  
3 Class, upon each payment of wages, itemized statements accurately showing: meal periods taken, total hours  
4 worked, the applicable hourly rates in effect during each pay period and the corresponding hours worked at  
5 each hourly rate, amongst other statutory requirements.

6 75. As a result of Defendants' conduct, Plaintiff and the Class have suffered injury in that, among  
7 other things, the lack of the required information hindered him from determining the amount of wages owed  
8 to them and led them him to believe they were not entitled to be paid wages for overtime, missed meal and  
9 rest breaks, or for each hour of labor they performed, although she was so entitled. The absence of accurate  
10 wage statements has prevented timely challenges to Defendants' unlawful pay practices, caused difficulty  
11 and expense in attempting to reconstruct time and pay records, and resulted in the submission by Defendants  
12 of inaccurate information about wages and deductions from wages to state and federal government agencies.  
13 Plaintiff and the Class entitlement to state benefits is based upon the total amount of wages earned and  
14 deductions from wages as reflected on her wage statements, and she is thereby injured by the Defendants'  
15 failure to report the total amount of wages earned during each pay period on each paycheck stub. As a result  
16 of Defendants' conduct, Plaintiff and the Class have suffered injury because her legal right to receive  
17 accurate wage statements was violated.

18 76. Labor Code § 226(a) requires Defendants "semimonthly or at the time each payment to  
19 wages" to furnish to Plaintiff and the Class "an accurate itemized statement in writing" showing gross  
20 and net wages earned, total hours worked by the employees, rates of pay, and other information.  
21 Defendants knowingly and intentionally failed to provide Plaintiff and the Class with such timely and  
22 accurate wage and hour statements.

23 77. Plaintiff and the Class suffered injury as a result of Defendants' knowing and  
24 intentional failure to provide them with the wage and hour statements as required by law.

25 78. Plaintiff and the Class are entitled to the amounts provided in Labor Code § 226(e), plus costs  
26 and attorneys' fees.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES DUE AND PAYABLE TWICE MONTHLY**

3 **[CALIFORNIA LABOR CODE § 204]**

4 **(Against All Defendants)**

5 79. Plaintiff and the Members of the Class re-allege and incorporate by reference, as though  
6 fully set forth herein, the paragraphs previously alleged in this Complaint.

7 80. Labor Code § 204 requires that all wages are due and payable twice in each calendar month.

8 81. The wages required by Labor Code §§ 226.7 and 1194 became due and payable to each  
9 employee in each month that he or she was not provided with a meal period or rest period or paid straight or  
10 overtime wages to which he or she was entitled.

11 82. Defendants violated Labor Code § 204 by systematically refusing to pay wages due under  
12 the Labor Code.

13 83. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to represent  
14 have been deprived of wages in amounts to be determined at trial, and are entitled to recovery of such  
15 amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 1194.

16 **SIXTH CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES FOR HOURS WORKED**

18 **[CALIFORNIA LABOR CODE § 1194]**

19 **(Against All Defendants)**

20 84. Plaintiff and the Members of the Class re-allege and incorporate by reference, as though  
21 fully set forth herein, the paragraphs previously alleged in this Complaint.

22 85. On information and belief, Plaintiff alleges that Defendants policy of failing to pay  
23 employees for all hours worked whether regular time or overtime violates the Labor Code and IWC Wage  
24 Orders.

25 86. As a result of the unlawful acts of Defendants, Plaintiff and the Class have been deprived of  
26 wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and  
27 penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 1194, 1199, et seq.

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO COMPLY WITH WRITTEN REQUEST TO INSPECT OR COPY RECORDS**

3 **[CALIFORNIA LABOR CODE §§ 226, 432 and 1198.5]**

4 **(Against All Defendants)**

5 87. Plaintiff and the Members of the Class (and subclasses) re-allege and incorporate by  
6 reference the paragraphs previously alleged in this Complaint.

7 88. Labor Code § 226(b) requires Defendants to permit current and former employees to inspect  
8 or copy payroll records pertaining to that current or former employee. An employer who receives a written  
9 or oral request from a current or former employee to inspect or copy his or her payroll records shall comply  
10 with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A  
11 failure by an employer to permit a current or former employee to inspect or copy his or her payroll records  
12 within the aforementioned 21 calendar day period entitles the current or former employee to recover a  
13 penalty from the employer in a civil action before a court of competent jurisdiction. Labor Code §§ 226,  
14 subdivisions (c) and (f.)

15 89. Defendants are required to keep accurate payroll records on each employee, and such records  
16 must be made readily available for inspection by the employee upon reasonable request. Plaintiff requested  
17 complete timecards, timekeeping records, and payroll information including all itemized earning statements  
18 showing, but not limited to, the hours worked, the applicable rate of pay for each pay period, and earning  
19 statements for each period. (See IWC Orders 1 through 15, Section 7, and IWC Order 16, Section 6.)  
20 Section 7 states as follows:

21 7. Records

22 (A) Every employer shall keep accurate information with respect to each employee  
including the following:

23 (1) Full name, home address, occupation and social security number.

24 (2) Birth date, if under 18 years, and designation as a minor.

25 (3) Time records showing when the employee begins and ends each work period.  
Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal  
periods during which operations cease and authorized rest periods need not be recorded.

26 (4) Total wages paid each payroll period, including value of board, lodging, or other  
compensation actually furnished to the employee.

27 (5) Total hours worked in the payroll period and applicable rates of pay. This  
28 information shall be made readily available to the employee upon reasonable request.

1 (6) When a piece rate or incentive plan is in operation, piece rates or an explanation  
2 of the incentive plan formula shall be provided to employees. An accurate production record  
3 shall be maintained by the employer.

4 (B) Every employer shall semimonthly or at the time of each payment of wages furnish each  
5 employee, either as a detachable part of the check, draft, or voucher paying the employee's wages,  
6 or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of  
7 the period for which the employee is paid; (3) the name of the employee or the employee's social  
8 security number; and (4) the name of the employer, provided all deductions made on written orders  
9 of the employee maybe aggregated and shown as one item.

10 (C) All required records shall be in the English language and in ink or other indelible form, properly  
11 dated, showing month, day, and year and shall be kept on file by the employer for at least three (3)  
12 years at the place of employment or at a central location within the State of California. An  
13 employee's records shall be available for inspection by the employee upon reasonable request.

14 90. Labor Code § 432 requires employers, like Defendants, to give an employee or job applicant,  
15 upon request, a copy of any documents that the employee or applicant has signed relating to the obtaining or  
16 holding of employment.

17 91. Labor Code § 1198.5 requires that employers, like Defendants, allow employees and former  
18 employees access to their personnel files and records that relate to the employee's performance or to any  
19 grievance concerning the employee. Inspections must be allowed at reasonable times and intervals. To  
20 facilitate the inspection, employers must do one of the following: (1) keep a copy of each employee's  
21 personnel records at the place where the employee reports to work, (2) make the personnel records available  
22 at the place where the employee reports to work within a reasonable amount of time following the  
23 employee's request, or (3) permit the employee to inspect the records at the location where they are stored  
24 with no loss of compensation to the employee.

25 92. Before Plaintiff and the Plaintiff Classes filed this action, Plaintiff wrote a pre-  
26 litigation demand letter to Defendants in which she requested Defendants produce: Plaintiff's pay  
27 check stubs or other wage statements; any documents signed by Plaintiff relating to her employment;  
28 and Plaintiff's personnel file. Defendants have failed to produce and explicitly refuse to produce these  
documents within thirty (30) days of Plaintiff's written request.

93. Under Labor Code § 226, subsections (e) and (f), and based on Defendants' conduct as  
alleged herein, Plaintiff and the Plaintiff Classes are entitled to (a) fifty dollars (\$50) for the initial  
pay period in which a wage and hour statement violation occurred, and one hundred dollars (\$100)  
per employee for each violation in subsequent pay periods, not exceeding an aggregate penalty of

1 four thousand (\$4,000); (b) an additional seven hundred and fifty dollar (\$750) penalty for  
2 Defendants' failure to allow Plaintiff to timely inspect and copy pertinent records; and (c) injunctive  
3 relief to ensure Defendants' compliance with Labor Code § 226; and (d) an award of costs and  
4 reasonable attorney's fees.

5 94. Defendants' conduct also entitles Plaintiff and the Plaintiff Classes to seek preliminary  
6 and permanent injunctive relief, including but not limited to an order that Defendants comply with a  
7 lawful request to provide personnel records, copies of signed documents and that Defendants issue  
8 wage and hour statements to Plaintiff and the Plaintiff Classes that comply with Labor Code § 226.

9 **EIGHTH CAUSE OF ACTION**

10 **FOR FAILURE TO PAY WAGES UPON ENDING EMPLOYMENT**

11 **[CALIFORNIA LABOR CODE §§ 201-203]**

12 **(Against All Defendants)**

13 95. Plaintiff and the Members of the Class (and subclasses) re-allege and incorporate by  
14 reference, as though fully set forth herein, the paragraphs previously alleged in this Complaint.

15 96. Plaintiff and many of the Class Members quit or were discharged from their employment  
16 with Defendants within the applicable statute of limitations.

17 97. However, Defendants failed to pay them without abatement, all wages as defined by  
18 applicable California law. Among other things, these employees were not paid any of the overtime  
19 compensation or premium pay referred to in this Complaint. Defendants' failure to pay said wages within the  
20 required time was willful within the meaning of Labor Code § 203.

21 98. Therefore, each of these employees is entitled to one day's wages for each day he or she was  
22 not timely paid all said wages due, up to a maximum of thirty (30) days' wages for each employee. Because  
23 none of the employees were ever paid the overtime wages to which they were entitled, referred to in this  
24 Complaint, each of the employees is entitled to thirty (30) days of wages.

1 **NINTH CAUSE OF ACTION**

2 **FOR UNLAWFUL COMPETITION AND UNLAWFUL BUSINESS PRACTICES**

3 [CALIFORNIA BUSINESS & PROFESSIONS CODE §§ 17200, *et seq.*]

4 **(Against All Defendants)**

5 99. Plaintiff and the Members of the Class (and subclasses) re-allege and incorporate by  
6 reference, as though fully set forth herein, the paragraphs previously alleged in this Complaint.

7 100. This claim is brought by Plaintiff, on behalf of herself and on behalf of the Class and the  
8 subclasses thereof.

9 101. At all times relevant hereto, from time to time, the Class have worked more than eight (8)  
10 hours in a workday, and/or more than forty (40) hours in a workweek, as employees of Defendants. The  
11 representative Plaintiff herein and members of the Class have had their hours adjusted, changed and/or  
12 modified to not reflect their actual number of hours worked per day and per pay period.

13 102. At all times relevant hereto, from time to time, Plaintiff and aggrieved employees have  
14 worked more than twelve (12) hours in a workday, and/or more than eight (8) hours on the seventh (7<sup>th</sup>)  
15 consecutive workday in a workweek, as employees of Defendants. The representative Plaintiff herein and  
16 members of the Class have had their hours adjusted, changed and/or modified to not reflect their actual  
17 number of hours worked per day and per pay period.

18 103. At all times relevant hereto, from time to time, Plaintiff and the Class have been denied meal  
19 breaks by Defendants.

20 104. At all times relevant hereto, from time to time, Plaintiff and the Class have been denied rest  
21 breaks by Defendants.

22 105. Defendants, and each of them, are “persons” as defined under of Business & Professions  
23 Code § 17021.

24 106. Since at least March of 2009 and at all times relevant hereto, by and through the conduct  
25 described herein, the Defendants have engaged in unfair, unlawful and fraudulent business practices, in  
26 violation of California Business & Professions Code §§ 17200, et seq., and have thereby deprived Plaintiff,  
27 and all persons in interest, of fundamental rights and privileges guaranteed to all employees under California  
28 law.

1           107. Defendants own, operate and manage the largest retail jeweler in California which provides  
2 services in California to the public as defined in of Business & Professions Code §§ 17022 and 17024.

3           108. Defendants, as set forth in this Complaint, supra, engaged in false, unfair and misleading  
4 business practices, consisting of acts and omissions that include, but are not limited to:

- 5           (a) The fact that Defendants required non-exempt, hourly employees to work more than  
6 three and a half (3.5) hour shifts without a ten (10) minute rest period;
- 7           (b) The fact that Defendants required non-exempt, hourly employees to work more than  
8 five (5) hour shifts without a thirty (30) minute meal period;
- 9           (c) The fact that Defendants adjusted, altered and/or changed time and/or pay schedules  
10 to reflect that they had not worked all straight time hours;
- 11           (d) The that Defendants required non-exempt, hourly employees to work more than  
12 forty (40) hours per week and then adjusted, altered and/or changed the end date, or  
13 day, of the pay period to reflect that they had not worked overtime hours;
- 14           (e) The fact that Defendants required non-exempt, hourly employees to work more than  
15 five (5) hours per week without a thirty (30) minutes rest period, and then adjusted,  
16 altered and/or changed schedules and/or time clocks to reflect that they had received  
17 a thirty (30) minute meal period;
- 18           (f) The fact that Defendants kept no detailed records of non-exempt, hourly employees'  
19 actual daily work activities, in part, to prevent Plaintiff and Plaintiff Classes from  
20 recovering overtime wages from Defendants after the discovery of Defendants'  
21 deceptive, fraudulent, false, unfair and unlawful conduct;
- 22           (g) The fact that Defendants failed to pay all earned wages to Plaintiff and Plaintiff  
23 Class for all hours worked.
- 24           (h) The fact that Defendants failed to pay all earned wages to Plaintiff and Plaintiff  
25 Class twice monthly for all hours worked.
- 26           (i) The fact that Defendants failed to pay all earned wages to Plaintiff and Plaintiff  
27 Class upon termination of employment.
- 28           (j) The fact that Defendants failed to provide Plaintiff and Plaintiff Class personnel



1 records, signed documents and pay records when requested.

2 (k) The fact that Defendants' activities related to their failure to disclose material and  
3 relevant information constitutes violations of Business & Professions Code § 17200;  
4 and,

5 (l) The fact that non-exempt, hourly employees employed by Defendants are entitled to  
6 overtime wages, as required by Labor Code §§ 1194 and 1198. The failure to pay  
7 overtime wages is "unlawful" pursuant to Cal. of Business & Professions Code  
8 §§17200, *et seq.*

9 109. Defendants, and each of them, have under reported to state authorities wages earned by non-  
10 exempt, hourly employees and, therefore, have underpaid state taxes, employer matching funds,  
11 unemployment premiums and Worker's Compensation premiums. The aforesaid conduct is criminal in  
12 nature and subjects the Defendants, and each of them, to sanctions, fines and imprisonment, and is  
13 actionable under of Business & Professions Code §§ 17000, *et seq.* and 17200, *et seq.*

14 110. Pursuant to of Business & Professions Code §§ 17071 and 17075, the failure of Defendants,  
15 and each of them, to pay overtime wages, related benefits, and employment taxes, is admissible as evidence  
16 of Defendants' intent to violate Chapter 4 of the Unfair Business Trade Act.

17 111. Defendants' practices are unlawful, unfair, deceptive, untrue, and misleading. Non-exempt,  
18 hourly employees, including Plaintiff and Plaintiff Classes are likely to be deceived by these practices.

19 112. As a direct and proximate result of these acts and omissions, Plaintiff, is informed and  
20 believes, and based upon that information and belief alleges, that the Defendants, and each of them, were  
21 able to unfairly compete with other manufacturing facilities in the state of California by not paying overtime  
22 and wages in violation of Business & Professions Code Chapters 4 and 5, *et al.* Due to this unfair business  
23 practice, Defendants have been able to charge lower prices for its goods and services than the prices charged  
24 by other comparable jewelers doing business in the state of California.

25 113. The victims of this unfair business practice include, but are not limited to, all non-exempt,  
26 hourly employees of Defendants, competitors of Defendants in the state of California, and the general  
27 public.

1           114. Plaintiff is informed and believes, and based upon that information and belief alleges, that  
2 Defendants, and each of them, performed the above-mentioned acts with the intent of gaining an unfair  
3 competitive advantage and thereby injuring Plaintiff, other employees, other competitors, and the general  
4 public.

5           115. By and through the conduct described above, Plaintiff, and all non-exempt, hourly  
6 employees, has been deprived of the right to be paid all wages earned, including meal and rest premiums  
7 and overtime compensation earned by virtue of employment with the Defendants at regular intervals, in  
8 accordance with the requirements of Labor Code §§ 200-203, 204, 226.7, 1197, 1198, et seq.

9           116. By and through their unfair, unlawful and/or fraudulent business practices described herein,  
10 Defendants, has obtained valuable property, money and services from Plaintiff, and all persons similarly  
11 situated, and has deprived Plaintiff, and all non-exempt, hourly employees of valuable rights and benefits  
12 guaranteed by law, all to their detriment.

13           117. Plaintiff and the Class have injury-in-fact as a result of Defendants' conduct. Moreover,  
14 Plaintiff and the Class have lost money as a direct result of Defendants' unfair, unlawful, deceptive and  
15 fraudulent conduct.

16           118. All of the acts described herein as violations of, among other things, the Cal. Labor Code  
17 and Industrial Welfare Commission Wage Orders, are unlawful and in violation of public policy; and in  
18 addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair,  
19 unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§  
20 17200, et seq.

21           119. Plaintiff, individually, and on behalf of members of the Plaintiff Classes, is entitled to, and  
22 does seek such relief as may be necessary to disgorge the profits which the Defendants have acquired, or of  
23 which Plaintiff has been deprived, by means of the above-described unfair, unlawful and/or fraudulent  
24 business practices. Plaintiff, and the members of the Plaintiff Classes, is not obligated to establish individual  
25 knowledge of the unfair practices of Defendants in order to recover restitution.

26           120. Plaintiff, individually, and on behalf of members of the Plaintiff Classes, is further entitled to  
27 and does seek a declaration that the above described business practices are unfair, unlawful and/or  
28 fraudulent, and injunctive relief restraining the Defendants, and each of them, from engaging in any of the

1 above-described unfair, unlawful and/or fraudulent business practices in the future.

2 121. Plaintiff, individually, and on behalf of members of the Plaintiff Classes, has no plain,  
3 speedy, and/or adequate remedy at law to redress the injuries which he has suffered as a consequence of the  
4 Defendants' unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or  
5 fraudulent business practices described above, Plaintiff and the Plaintiff Class have suffered and will  
6 continue to suffer irreparable harm unless the Defendants' and each of them, are restrained from continuing  
7 to engage in said unfair, unlawful and/or fraudulent business practices.

8 122. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth herein  
9 above, they will continue to fail to pay overtime wages to non-exempt, hourly employees. In addition,  
10 Defendants, and each of them, will continue to avoid paying the appropriate taxes, insurance and  
11 unemployment holdings.

12 123. Plaintiff, individually, and on behalf of members of the Plaintiff Classes, requests that the  
13 Court issue a preliminary and permanent injunction prohibiting the Defendants, and each of them, from  
14 requiring non-exempt, hourly employees from working more than eight (8) hours a work day and/or forty  
15 (40) hours a week in any work week without payment of overtime wages.

16 124. Plaintiff, individually, and on behalf of members of the Plaintiff Classes, also requests that  
17 the Court order Defendants to disgorge all illegally obtained monies from failing to pay taxes, state disability  
18 insurance premiums, and unemployment taxes, obtained by way of their violation of Business & Professions  
19 Code §§ 17200, et seq.

20 125. As Plaintiff seeks to enforce an important right affecting the public interest, to wit, the  
21 lawful payment of overtime wages as required by law the disgorgement of ill-gotten gains and the restitution  
22 of unlawfully withheld wages, with interest thereon, Plaintiff requests an award of attorneys' fees, pursuant  
23 to Code Civil Procedure § 1021.5.

**TENTH CAUSE OF ACTION**  
**VIOLATION OF PRIVATE ATTORNEY GENERALS ACT**

**[CALIFORNIA LABOR CODE §§ 2698 and 2699]**

**(Against All Defendants)**

126. Plaintiff and the Plaintiff Classes (and subclasses) re-allege and incorporate by reference, as though fully set forth herein, the paragraphs previously alleged in this Complaint.

127. As a result of the previously alleged, including violations of the sections of the California Labor Code alleged above, Plaintiff seeks penalties under Labor Code §§ 2698 and 2699.

128. Plaintiff has met and/or will meet all of the requirements set forth in Labor Code §§ 2699.3 necessary to commence a civil action against Defendants for violations of Labor Code §§ 226.7 and 512.

129. Plaintiff, for herself and on behalf of all other similarly situated current and former employees of Defendants, seeks civil penalties in the amount of:

- (a) one hundred dollars (\$100.00) for each of the first violation per employee, per pay period, and;
- (b) two hundred dollars (\$200.00) for each subsequent violation of each such provision, per employee, per pay period.

130. These penalties will be allocated 75% to the Labor Workforce Development Agency (“LWDA”) and 25% to the affected employees.

131. WHEREFORE, Plaintiff and each Plaintiff Classes he seeks to represent request relief as described herein and below and as deemed just.

**PRAYER**

WHEREFORE, the PLAINTIFF DEMANDS and JURY TRIAL and prays for judgment as follows:

ON THE FIRST CAUSE OF ACTION:

- (a) For compensatory damages according to proof;
- (b) For interest on any compensatory damages;
- (c) For Certification of the Classes defined herein, or such other Classes and/or subclasses as the Court will certify;
- (d) For statutory penalties and attorneys fees; and

1 (e) Waiting period wages and penalties.

2 ON THE SECOND CAUSE OF ACTION:

3 (a) For statutory penalties;

4 (b) For Certification of the Classes defined herein, or such other Classes and/or  
5 subclasses as the Court will certify; and

6 (c) For attorneys' fees and costs as allowed by law.

7 ON THE THIRD CAUSE OF ACTION:

8 (a) For statutory penalties,

9 (b) For Certification of the Classes defined herein, or such other Classes and/or  
10 subclasses as the Court will certify; and

11 (c) For attorneys' fees and costs as allowed by law.

12 ON THE FOURTH CAUSE OF ACTION:

13 (a) For statutory penalties;

14 (b) For compensatory damages and interest thereon for actual harm caused;

15 (c) For Certification of the Classes defined herein, or such other Classes and/or  
16 subclasses as the Court will certify; and

17 (d) For attorneys' fees and costs as allowed by law.

18 ON THE FIFTH CAUSE OF ACTION:

19 (a) For statutory penalties;

20 (b) For compensatory damages and interest thereon for actual harm caused;

21 (c) For Certification of the Classes defined herein, or such other Classes and/or  
22 subclasses as the Court will certify; and

23 (d) For attorneys' fees and costs.

24 ON THE SIXTH CAUSE OF ACTION:

25 (a) For compensatory damages according to proof;

26 (b) For interest on any compensatory damages;

27 (c) For Certification of the Classes defined herein, or such other Classes and/or  
28 subclasses as the Court will certify; and

1 (d) For statutory penalties and attorneys' fees;

2 ON THE SEVENTH CAUSE OF ACTION:

3 (a) For statutory penalties;

4 (b) For preliminary and permanent injunctive relief ; and

5 (c) For costs and attorneys' fees;

6 ON THE EIGHTH CAUSE OF ACTION:

7 (a) For compensatory damages, wages and penalties;

8 (b) For interest on any compensatory damages;

9 (c) For Certification of the Classes defined herein, or such other Classes and/or  
10 subclasses as the Court will certify; and

11 (d) For costs and For costs and attorneys' fees;

12 (d) attorneys' fees;

13 ON THE NINTH CAUSE OF ACTION:

14 (a) For the equitable, injunctive and declaratory relief;

15 (b) Treble damages;

16 (c) For Certification of the Classes defined herein, or such other Classes and/or  
17 subclasses as the Court will certify; and

18 (d) For disgorgement of profits.

19 ON THE TENTH CAUSE OF ACTION:

20 (a) That DEFENDANTS be ordered to pay civil penalties pursuant to violations of  
21 Labor Code §§ 2698 and 2699, in the amount of \$100 for the first violation per  
22 employee per pay period, and \$200 for subsequent violations per employee per pay  
23 period to be allocated 75% to the LWDA and 25% to the affected employees.

24 (b) For costs and attorneys' fees;

25 ON ALL CAUSES OF ACTION:

26 (a) For reasonable attorneys' fees;

27 (b) For costs of suit; and,

28 (c) For such other and further relief as this Court may deem just and proper.

1 Dated: December 6, 2013

**QUINTILONE & ASSOCIATES**

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3  
4 By: \_\_\_\_\_

5 RICHARD E. QUINTILONE II,  
6 Attorney for Plaintiff KATHYA TAPIA, on behalf  
7 of herself and on behalf of a Class of all other  
8 persons similarly situated

9 **DEMAND FOR JURY TRIAL**

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

11 Dated: December 6, 2013

**QUINTILONE & ASSOCIATES**

12 

13  
14 By: \_\_\_\_\_

15 RICHARD E. QUINTILONE II,  
16 Attorney for Plaintiff KATHYA TAPIA,  
17 on behalf of herself and on behalf of a Class of all  
18 other persons similarly situated  
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