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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

EBONY HUDSON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

LIBRE TECHNOLOGY INC., doing
business as Student Loan Service,
Docupop, and Student Loan Service, US;
**ANTONY MURIGU; JASON
BLACKBURN**; and **BRIAN
BLACKBURN**.

Defendants.

Case No.: '18CV1371 GPC KSC

**FLSA COLLECTIVE ACTION/
CLASS ACTION COMPLAINT
AND JURY DEMAND**

JURY DEMAND

1 Plaintiff EBONY HUDSON (hereinafter “Plaintiff”), individually and on behalf of
2 all others similarly situated, by and through her attorney, hereby brings this
3 Collective/Class Action Complaint against Defendant LIBRE TECHNOLOGY INC.,
4 doing business as Student Loan Service, Docupop, and Student Loan Service, US
5 (hereinafter collectively referred to as “Libre” or “Defendant”), ANTONY MURIGU,
6 JASON BLACKBURN, and BRIAN BLACKBURN jointly and severally, and states as
7 follows:

8 **INTRODUCTION**

9 1. This is a collective and class action brought for violations of the Fair Labor
10 Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (“FLSA”) as a FLSA § 216(b) collective
11 action and California state-wide class action pursuant to Fed. R. Civ. P. 23(b)(3) for state
12 law claims, including California Labor Code (“Labor Code”); the California Industrial
13 Welfare Commission Wage Order No. 4; the California Business & Professional Code
14 section 17200, *et seq.*; and others as pleaded below.

15 2. Libre is in the debt-relief business. Libre contacts financially distressed
16 consumers to offer, and purports to provide, assistance in applying for U.S. Department
17 of Education student loan consolidation and repayment programs, including Direct
18 Consolidation Loans and Income-Based Repayment Plans. Similar assistance is offered
19 by the Department of Education and student loan servicers free of charge. Unlike the
20 Department of Education and student loan servicers, however, Libre charges for its
21 services and leverages its communications with consumers regarding their student loan
22 debt to sell unrelated debt relief programs. The individual Defendants, owns and/or
23 operates Libre and have control over Libre’s employment policies.

24 3. Defendants employed call center sales employees, known as Member
25 Success Coordinators (referred to herein as “Agents”). Defendants employed these
26 Agents, including Plaintiff, in call center facilities in San Diego, California. Defendants
27 employ Agents to make sales calls on prospective customer leads, and to “assist”
28 individuals in applying for student loan consolidation and repayment programs.

1 4. The individuals Plaintiff seeks to represent in this action are current and
2 former Agents who are similarly situated to themselves in terms of their positions, job
3 duties, pay structure, and Defendants’ violations of federal and state law.

4 5. Defendants required their Agents to work a full-time schedule, plus
5 overtime. However, Defendants did not accurately record their Agents’ compensable
6 work time and overtime as required by law.

7 6. Defendants failed to pay Agents for all hours worked. For example, in the
8 course of performing their job responsibilities, Defendants’ Agents used multiple
9 computer networks, software programs, applications, and phone systems. The time
10 Agents spent booting up and logging into these programs and applications before their
11 shifts and shutting down these programs and applications after their shifts was
12 compensable because the programs and applications were an integral, indispensable, and
13 important part of the Agents’ work and they could not perform their jobs effectively
14 without them.

15 7. Yet, Defendants do not compensate its Agents for the time they spend
16 booting up and shutting down their computer systems. This is because Defendants’ time
17 records system requires an Agent to be logged into their computer workstations.
18 Accordingly, Defendants’ time records system is incapable of logging the time it takes
19 Defendants’ Agents to start up and shut down their computers and related software
20 programs, applications, and phone systems.

21 8. Defendants knew or could have easily determined how long it took for their
22 Agents to complete their unpaid work, and Defendants could have properly compensated
23 Plaintiff and the putative Class for this work, but they did not.

24 9. Defendants further failed to completely and fully compensate their
25 employees for the overtime they did work. While Defendants’ Agents are hourly
26 employees, these Agents also receive bonuses based on the number of consumers they
27 funnel from Defendants’ student loan services to other debt relief programs. When
28 Defendants calculate their Agents’ “regular rate” for determining overtime, Defendants’

1 did not factor in their Agents bonus compensation, as required by both California and
2 federal law.

3 10. Finally, Defendants did not pay their Agents for all the commissions/bonus
4 they earn. This not only deprived Agents of the full amount of waged owed, but also
5 further effected the proper “regular rate” that should have been used to determine
6 overtime wages. Consequently, Defendants greatly shortchanged Plaintiff and other
7 members of the putative Class.

8 11. Plaintiff seeks a declaration that their rights, and the rights of the putative
9 Class, were violated, an award of unpaid wages, an award of liquidated damages,
10 injunctive and declaratory relief, attendant penalties, and an award of attorneys’ fees and
11 costs to make them whole for damages they suffered, and to ensure that they and future
12 workers will not be subjected by Defendants to such illegal conduct.

13 **JURISDICTION AND VENUE**

14 12. This Court has subject-matter jurisdiction over Plaintiff’s FLSA claim
15 pursuant to 29 U.S.C. §216(b), which provides that suits under the FLSA “may be
16 maintained against any employer ... in any Federal or State court of competent
17 jurisdiction.”

18 13. This Court has supplemental jurisdiction over Plaintiff’s state law claims
19 pursuant to 28 U.S.C. § 1367(a) because this claim arises from a common set of operative
20 facts and is so related to the claims within this Court’s original jurisdiction that they form
21 a part of the same case or controversy.

22 14. This Court has personal jurisdiction over Defendants because Defendants are
23 residents of and conduct business in this State, had systematic and continuous ties with
24 this state, and had agents and representatives in this state. Thus, Defendants have
25 sufficient minimum contacts with or otherwise purposefully avail themselves of the
26 markets in the State of California, or otherwise have sufficient contacts with this District
27 to justify them being fairly brought into court in this District.

28 15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)-(d) because

1 Plaintiff and at least some of the putative Class members worked and were paid in this
2 District and the obligations, liabilities, and breaches complained of herein arose or
3 occurred in this District. Defendants own, operate, and/or maintain offices, transact
4 business, employ Agents within the District, or otherwise are found within the District.
5 Defendants are within the jurisdiction of this Court for purpose of service of process.

6 **PARTIES**

7 16. Plaintiff, Ebony Hudson, is a veteran and resident of San Diego County,
8 California. She was employed by Defendants as an Agent in San Diego, California from
9 May 22, 2017 through the present date. Ms. Hudson's consent to join the FLSA class is
10 attached hereto as **Exhibit A**.

11 17. Ms. Hudson was paid on an hourly basis, plus bonuses. Ms. Hudson also
12 received a significant commission for each individual she transferred to Defendants'
13 partner debt relief companies.

14 18. Ms. Hudson regularly worked over eight (8) hours in a workday and
15 regularly incurred four (4) to six (6) hours of overtime in a work week. However, when
16 Ms. Hudson received her bimonthly wage statements and paychecks, her overtime rate
17 was calculated as 1.5 or 2.0 times her hourly rate and her regular rate.

18 19. Additional individuals were or are employed by Defendants as Agents
19 during the past four years and their consent forms will also be filed in this case.

20 20. Defendant Libre Technology Inc. is a California Corporation with a
21 headquarters and service of process address listed as 4719 Viewridge Avenue, Suite 200,
22 Suite 818, San Diego, California 92123.

23 21. Defendant Antony Murigu, owns and operates Libre and its related entities.
24 Mr. Murigu has control over Libre's employment policies.

25 22. Defendant Jason Blackburn is the Chief Operating Officer of Libre and its
26 related entities. Jason Blackburn has control over Libre's employment policies.

27 23. Defendant Brian Blackburn is Director of Operations at Libre and its related
28 entities. Brian Blackburn has control over Libre's employment policies.

1 **JOINT EMPLOYER ALLEGATIONS**

2 24. Under the FLSA, “employer” is defined as “any person acting directly or
3 indirectly in the interest of an employer in relation to an employee.” 29 U.S.C. § 203(d).

4 25. The definition of “employer” under the FLSA is not limited by the common
5 law concept of “employer,” and is to be given an expansive interpretation in order to
6 effectuate the FLSA’s broad remedial purposes. *Real v. Driscoll Strawberry*
7 *Assocs.*, 603 F.2d 748, 754 (9th Cir. 1979).

8 26. Congress defined “employee” as “any individual employed by an
9 employer,” 29 U.S.C. § 203(e)(1), describing this language as “the broadest definition
10 that has ever been included in any one act.” *United States v. Rosenwasser*, 323 U.S. 360,
11 363 (1945) (quoting 81 Cong. Rec. 7657 (1937) (statement of Sen. Hugo Black)); *Tony*
12 *& Susan Alamo Found. v. Sec’y of Labor*, 471 U.S. 290, 300 (1985) (same).

13 27. The determination of whether an employer-employee relationship exists
14 does not depend on “isolated factors but rather upon the circumstances of the whole
15 activity.” *Rutherford Food Corp. v. McComb*, 331 U.S. 722, 730 (1947). The touchstone
16 is “economic reality.” *Goldberg v. Whitaker House Cooperative, Inc.*, 366 U.S. 28, 33
17 (1961).

18 28. Two or more employers may jointly employ someone for purposes of the
19 FLSA. *Falk v. Brennan*, 414 U.S. 190, 195 (1973).

20 29. All joint employers are individually responsible for compliance with the
21 FLSA. 29 C.F.R. § 791.2(a) (1981).

22 30. Regulations issued by the Department of Labor give the following examples
23 of joint employment situations:

24 (2) Where one employer is acting directly or indirectly in the interest
25 of the other employer (or employers) in relation to the employee; or

26 (3) Where the employers are not completely disassociated with
27 respect to the employment of a particular employee and may be
28 deemed to share control of the employee, directly or indirectly, by
reason of the fact that one employer controls, is controlled by, or is
under common control with the other employer.

1 29 C.F.R. § 791.2(b) (footnotes omitted).

2 31. The ultimate question of whether a party is an “employer” is a legal issue.
3 *Bonnette v. California Health & Welfare Agency*, 704 F.2d 1465, 1469–70 (9th Cir.
4 1983). The ultimate determination must be based “upon the circumstances of the whole
5 activity.” *Id.* at 1470 (citing *Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947)).

6 32. During the applicable statutory period, Defendant Murigu was the Chief
7 Executive Officer, Secretary, and Chief Financial Officer of Defendant Libre.
8 Accordingly, Mr. Murigu operates control over Libre’s daily operations, including
9 compensation and work hours. Plausibly, by Defendant Murigu’s exercise of control,
10 input, and responsibility for issuing accurate, legitimate, and proper paychecks for the
11 Plaintiffs and all other Agents, he meets the test for joint employer.

12 33. Defendant Jason Blackburn is the Chief Operating Officer at Libre and its
13 related entities. Accordingly, Jason Blackburn operates control over Libre’s daily
14 operations, including compensation and work hours. Plausibly, by Defendant Jason
15 Blackburn’s exercise of control, input, and responsibility for issuing accurate, legitimate,
16 and proper paychecks for the Plaintiffs and all other Agents, he meets the test for joint
17 employer.

18 34. Defendant Brian Blackburn is Director of Operations at Libre and its related
19 entities. Accordingly, Brian Blackburn operates control over Libre’s daily operations,
20 including compensation and work hours. Plausibly, by Defendant Brian Blackburn’s
21 exercise of control, input, and responsibility for issuing accurate, legitimate, and proper
22 paychecks for the Plaintiffs and all other Agents, he meets the test for joint employer.

23 35. The individual Defendants controlled the rate and method of wage payment
24 for the Agents, including their commission structure. *See Conde v. Open Door Mktg.,*
25 *LLC*, 223 F.Supp.3d 949, 967 (N.D. Cal. 2017) (finding multiple companies and
26 individual defendants were joint employers of sales and marketing workers). Plausibly,
27 through the individual Defendants’ exercise of control, input, and responsibility over the
28 rate and method of wage payment and commissions for Plaintiff, they meets the test for

1 joint employer.

2 36. The individual Defendants were also responsible for the day-to-day
3 supervision of Defendants' Agents. Specifically, they were present in the San Diego
4 office regular basis, directing the Agents' work, making sure the Agents were on the
5 phones, and enforcing Defendants' employment policies and practices. Plausibly, by the
6 individual Defendants exercise of control, input, and responsibility over the day-to-day
7 supervision of Agents, they meets the test for joint employer.

8 37. The individual Defendants created and controlled the setting and monitoring
9 of performance goals for the Agents. Specifically, they set quotas and goals for their
10 Agents. Plausibly, by the individual Defendants' exercise of control, input and
11 responsibility over the setting and monitoring of performance goals of Plaintiff, they
12 meet the test for joint employer. *Conde, supra*.

13 38. The individual Defendants controlled the hiring and firing of Agents.
14 Specifically, the individual Defendants had the authority to hire and fire Agents as they
15 saw fit, and carried out the hiring and firing of Agents on a regular basis. Plausibly, by
16 the individual Defendants' exercise of control, input, and responsibility over the hiring
17 and firing of Agents, they meets the test for joint employer.

18 39. Defendants maintained employment records in connection with the Agents.
19 Furthermore, Defendants actively kept, updated, and maintained Agents' payroll records,
20 commission reports, and performance evaluations related to their employment.
21 Plausibly, by all Defendants' exercise of control, input and responsibility over the
22 Agents' employment records, they meet the test for joint employer.

23 40. Defendants controlled the training, structure and conditions of employment
24 for Plaintiff. Plausibly, by Defendants' exercise of control, input, and responsibility over
25 the training, structure and conditions of employment of the Agents, they meet the test for
26 joint employer.

27 41. Defendants provided all the necessary tools, equipment and materials used
28 by the Agents. Specifically, they provided the computers, hardware, software, and

1 telephones necessary for the Agents to perform their work. Most importantly, this
2 included the leads. Plausibly, by Defendants providing all necessary tools, equipment
3 and materials used by the Agents, they meet the test for joint employer.

4 42. Regardless of which of the Defendants is viewed as having had the power to
5 hire and fire, their power over the employment relationship by virtue of their overarching
6 control over the purse strings was substantial, and thus each Defendant meets the test for
7 joint employer. *Bonnette, supra* at 1470.

8 43. Regardless of any of the individual criteria for joint employer, as active
9 business owners, Defendant Murigu, Defendant Jason Blackburn, and Defendant Brian
10 Blackburn also had complete economic control over the employment relationship. The
11 “economic reality” was that they employed Agents to perform sales and call center
12 services for their benefit, and thus they meet the test for joint employer. *Bonnette, supra*
13 at 1470.

14 44. The fact that each Defendant may not have exercised each and every aspect
15 of the test for employer under the law, and may have delegated some of the
16 responsibilities to others, does not alter their status as employers; it merely makes them
17 joint employers. *Id.*

18 45. Whether employers, or joint employers, each Defendant is nevertheless
19 liable for the wage violations pleaded in this Complaint. *Falk, supra*; 29 C.F.R. §
20 791.2(a).

21 46. The above well-pleaded facts all support Plaintiff’s standing to sue the
22 Defendants named herein as a joint employers and seek damages for the alleged
23 violations under a joint employment theory. *Conde v. Open Door Mktg., LLC*, 223 F.
24 Supp. 3d 949, 966 (N.D. Cal. 2017); *Haralson v. United Airlines, Inc.*, 224 F. Supp. 3d
25 928, 940 (N.D. Cal. 2016).

26 47. Upon information and belief, Defendants jointly employed hundreds of
27 Agents – including Plaintiff – in California during the last four years to perform student
28 loan and debt relief services which include selling the above-mentioned services over the

1 phone.

2 48. Plaintiff believe, and allege thereon, that Defendants are jointly and
3 severally responsible for the circumstances alleged herein, and proximately caused the
4 fraudulent, unlawful, unfair, deceptive acts and wage violations complained of herein.

5 49. At all times herein mentioned, Defendants approved of, condoned, and/or
6 otherwise ratified each and every one of the acts or omissions complained of herein.

7 50. Defendants acted willfully in violating the laws and regulations pleaded in
8 this Complaint.

9 51. At all times herein mentioned, Defendants' acts and omissions proximately
10 caused the complaints, injuries, and damages alleged herein.

11 **GENERAL ALLEGATIONS**

12 52. Defendants ostensibly operate a student loan servicing company. Libre
13 (which is, or has been, known as Student Loan Service, Nulo Debt Processing, NDP
14 Services, Inc., Docupop, and Student Loan Service, US) contacts financially distressed
15 consumers with outstanding student loans and offers these individuals the opportunity to
16 sign up for federal student loan consolidation and repayment programs, including Direct
17 Consolidation Loans and Income-Based Repayment Plans. Libre charges for its services.

18 53. Libre is not the only entity to offer such services, individuals can sign up for
19 these federal programs directly through the U.S. Department of Education or through
20 their student loan servicer. Either of these options are free.

21 54. Libre's motivation, however, is not solely assisting consumers with their
22 student loans. Instead, Defendants' business model relies upon generating new sales
23 leads for related debt-relief services. By contacting financially distressed individuals to
24 purportedly consolidate or change their repayment plan for their student loans,
25 Defendants are able to gauge these consumers' finances and offer other debt relief
26 programs.

27 55. For example, Defendants' Agents may help a consumer complete the
28 necessary paperwork to change their federal student loans to an Income-Based

1 Repayment plan. While doing so, the Agent will inquire regarding the consumer's other
2 debts. If the consumer's non-student loan debts are sufficient, the Agent may
3 recommend that the consumer consider the debt relief program. Defendants' Agents will
4 then attempt to transfer that individual to a for-profit company that offers such debt relief
5 services, some of which were also owned by Defendant Murigu.

6 56. If the Agent was successful in generating a lead, they would receive a bonus.
7 This compensation is in addition to the Agents' hourly wage and is not discretionary.

8 **Defendants Failed to Compensate Agents for All Time Worked**

9 57. Pursuant to Defendants' policies, training, and direction, Plaintiff and all
10 other Agents are required to start up and log into various secure computer programs,
11 software programs, and applications in order to access information. The pre-shift startup
12 and login process takes substantial time on a daily basis with said time ranging from five
13 (5) to ten (10) minutes per day, or even longer when technical issues arise. Similarly, at
14 the end of the workday, Plaintiff and all other Agents are required to log out and shut
15 down their computers, including any computer programs, software programs, and other
16 applications necessary for their work. This process could also take five (5) to ten (10)
17 minutes per day.

18 58. Defendants' time clock system, however, is located on Defendants'
19 computer system, and required that Plaintiff and other Agents be logged in to their
20 computers to punch in and out. Accordingly, Defendants only recorded the amount of
21 time that Agents worked once their computers had been started up.

22 59. The time spend by Plaintiff and all other Agents to log into and out of their
23 computers is considered "hours worked." For example, the United States Department of
24 Labor's ("DOL"), *Fact Sheet #64: Call Centers under the Fair Labor Standards Act*
25 (*FLSA*) states:

26 Hours Worked: Covered employees must be paid for all hours worked in a
27 workweek. In general, "hours worked" includes all time an employee must
28 be on duty, or on the employer's premises or at any other prescribed place of
work, from the beginning of the first principal activity of the workday to the
end of the last principal activity of the workday. Also included is any

1 additional time the employee is allowed (i.e., suffered or permitted) to work.
2 An example of the first principal activity of the day for
3 agents/specialists/representatives working in call centers includes starting
4 the computer to download work instructions, computer applications, and
5 work-related emails.

6 (Emphasis added).

7 60. As a result, Plaintiff and other Agents were required to work, off the clock,
8 when booting up and shutting down their computer systems. This time was not *de*
9 *minimis*, but represented at ten (10) to twenty (20) minutes per workday, or
10 approximately an hour each workweek.

11 **Defendants Failed to Pay Bonuses Due to Agents**

12 61. As part of their compensation, it was Defendants' acknowledged policy and
13 procedure to provide a monetary bonus for each lead generated for ancillary debt relief
14 programs. These "lead bonuses" could represent a significant portion of Plaintiff (and
15 other Class members) paychecks. Defendants often did not provide a bonus for each lead
16 generated, as was Defendants' policy. Instead, Defendants would often pay their Agents
17 a lesser bonus amount without explanation. Accordingly, Plaintiff and other Agents were
18 not fully compensated for their work.

19 **Defendants Failed to Properly Calculate the Regular Rate of Pay**

20 62. Defendants also failed to fully compensate their Agents for their overtime
21 wages. Under FLSA, the regular rate is the "keystone" to calculating the overtime rate.
22 *Walling v. Youngerman-Reynolds Hardwood Co.*, 325 U.S. 419 (1945). It is "the hourly
23 rate actually paid the employee for the normal, non-overtime workweek for which he is
24 employed." 29 C.F.R. §778.108.

25 63. No matter how an employee is paid—whether by the hour, by the piece, on a
26 commission, or on a salary—the employee's compensation must be converted to an
27 equivalent hourly rate from which the overtime rate can be calculated. 29 C.F.R.
28 §778.109. "The regular hourly rate of pay is determined by dividing the employee's total
remuneration for employment (except statutory exclusions) in any workweek by the total
number of hours actually worked by the employee in that workweek for which such

1 compensation was paid.” *Id.*

2 64. There is a statutory presumption that remuneration in any form must be
3 included in the regular rate calculation. The burden is on Defendants to establish that any
4 payment should be excluded. Thus, determining the regular rate starts from the premise
5 that all payments made to Plaintiff for work performed are included in the base
6 calculation unless specifically excluded by statute.

7 65. Accordingly, an employee’s regular rate of pay is computed by reference to
8 the employees’ hourly wage, as well as any bonus compensation. 29 C.F.R. §778.110(b).
9 The Code of Federal Regulation provides an example of this rule in practice:

10 If the employee receives, in addition to the earnings computed at the
11 \$12 hourly rate, a production bonus of \$46 for the week, the regular
12 hourly rate of pay is \$13 an hour (46 hours at \$12 yields \$552; the
13 addition of the \$46 bonus makes a total of \$598; this total divided by
46 hours yields a regular rate of \$13). The employee is then entitled to
be paid a total wage of \$637 for 46 hours (46 hours at \$13 plus 6
hours at \$6.50, or 40 hours at \$13 plus 6 hours at \$19.50)..

14 *Id.*

15 66. Because Defendants’ compensation scheme failed to incorporate Plaintiff’s
16 and the Class’s bonuses in their regular rate of pay, Defendants failed to properly
17 compensate Plaintiff and their other Agents under the FLSA.

18 67. Under California law, employees are entitled to “no less than one and one-
19 half times the *regular rate* of pay” for work in excess of eight hours in one workday and
20 the first eight hours worked on the seventh day of work in any one workweek. Cal. Lab.
21 Code, § 510(a) (emphasis added). Any work in excess of 12 hours in one day shall be
22 compensated at the rate of no less than twice the *regular rate* of pay for an employee. *Id.*
23 In addition, any work in excess of eight hours on any seventh day of a workweek shall be
24 compensated at the rate of no less than twice the *regular rate* of pay of an employee.

25 68. Similar to federal law, to determine the “*regular rate*,” an employer must
26 account for all compensation, not just an employee’s hourly wages. For example, the
27 Division of Labor Standards Enforcement Policies and Interpretations Manual, section
28

1 35.7, establishes that:

2 Calculation of “Regular Rate Of Pay” Where Bonus Is Involved. When
3 calculating the regular rate of pay for purposes of overtime calculations
4 under the IWC Orders, non-discretionary bonuses must be calculated into
the formula.

5 69. Again, because Defendants’ compensation scheme failed to incorporate
6 Plaintiff’s and the Class’s bonuses in their regular rate of pay, Defendants failed to
7 properly compensate Plaintiff and their other Agents under California law.

8 **Defendant Unlawfully Benefitted From Their Agents’ Uncompensated Work**

9 70. At all relevant times, Defendants directly benefited from the uncompensated
10 off-the-clock work performed by their Agents.

11 71. At all relevant times, Defendants controlled the work schedules, duties,
12 protocols, applications, assignments and employment conditions of their Agents.

13 72. At all relevant times, Defendants were able to track the amount of time their
14 Agents spent working; however, Defendant failed to document, track, or pay its Agents
15 for all the work they performed, including off-the-clock work.

16 73. At all relevant times, Plaintiff was a non-exempt employee, subject to the
17 requirements of the FLSA and the California Labor Code.

18 74. At all relevant times, Defendants’ policies and practices deprived their
19 Agents of wages owed for the off-the-clock work activities. Because Defendants’ Agents
20 typically worked over 40 hours in a workweek, and more than eight (8) hours per day,
21 Defendants’ policies and practices also deprived them of overtime pay.

22 75. Defendants knew or should have known that Plaintiff and other Agents’ off-
23 the-clock work was compensable under the law. Indeed, in light of the explicit DOL
24 guidance cited above, there is no conceivable way for Defendants to establish that it acted
25 in good faith.

26 **FLSA COLLECTIVE ACTION ALLEGATIONS**

27 76. Plaintiff brings this action pursuant to 29 U.S.C. § 216(b) of the FLSA on
28 her own behalf and on behalf of:

1 All current and former Agents who worked for any Defendants at any time
2 from June 21, 2015 through judgment.

3 (hereinafter referred to as the “FLSA Collective”). Plaintiff reserves the right to amend
4 this definition if necessary.

5 77. Defendants are liable under the FLSA for, *inter alia*, failing to properly
6 compensate Plaintiff and other similarly situated Agents.

7 78. Excluded from the proposed FLSA Collective are Defendants’ executives,
8 administrative and professional employees, including computer professionals and outside
9 sales persons.

10 79. Consistent with Defendants’ policy and pattern or practice, Plaintiff and the
11 members of the FLSA Collective were not paid premium overtime compensation when
12 they worked beyond 40 hours in a workweek.

13 80. All of the work that Plaintiff and the FLSA Collective members performed
14 was assigned by Defendants, and/or Defendants were aware of all of the work that
15 Plaintiff and the FLSA Collective members performed.

16 81. As part of its regular business practice, Defendants intentionally, willfully,
17 and repeatedly engaged in a pattern, practice, and/or policy of violating the FLSA with
18 respect to Plaintiff and the FLSA Collective members. This policy and pattern or
19 practice includes, but is not limited to:

- 20 a. willfully failing to pay its employees, including Plaintiff and the FLSA
21 Collective, for all hours worked including premium overtime wages for
22 all hours worked in excess of 40 hours per workweek; and
23 b. willfully failing to accurately record all of the time that its employees,
24 including Plaintiff and the FLSA Collective, worked for Defendants’
25 benefit.

26 82. Defendants are aware or should have been aware that federal law required
27 them to pay Plaintiff and the FLSA Collective overtime premiums for all hours worked in
28 excess of 40 per workweek.

83. Defendants failed to properly maintain timekeeping and payroll records

1 pertaining to the FLSA Collective under the FLSA, 29 U.S.C. § 211(c).

2 84. Defendants’ unlawful conduct was widespread, repeated, and consistent.

3 85. A collective action under the FLSA is appropriate because the employees
4 described above are “similarly situated” to Plaintiff under 29 U.S.C. § 216(b). The
5 employees on behalf of whom Plaintiff bring this collective action are similarly situated
6 because (a) they have been or are employed in the same or similar positions; (b) they
7 were or are performing the same or similar job duties; (c) they were or are subject to the
8 same or similar unlawful practices, policy, or plan; and (d) their claims are based upon
9 the same factual and legal theories.

10 86. The employment relationships between Defendants and every proposed
11 FLSA Collective member are the same and differ only by name, location, and rate of pay.
12 The key issues – the amount of uncompensated off-the-clock work owed to each
13 employee – do not vary substantially among the proposed FLSA Collective members.

14 87. There are many similarly situated current and former Agents who were
15 underpaid in violation of the FLSA who would benefit from the issuance of a court-
16 authorized notice of this lawsuit and the opportunity to join it.

17 88. Notice should be sent to the FLSA Collective pursuant to 29 U.S.C. §
18 216(b).

19 89. Those similarly situated employees are known to Defendants, are readily
20 identifiable, and can be located through Defendants’ records.

21 90. Plaintiff estimates the proposed FLSA Collective, including both current and
22 former employees over the relevant period will include several hundreds, if not
23 thousands, of workers. The precise number of FLSA Collective members should be
24 readily available from a review of Defendants’ personnel and payroll records.

25 **RULE 23 CLASS ACTION ALLEGATIONS**

26 91. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23(b)(3) on her own
27 behalf and on behalf of all similarly situated current and former Agents of Defendants
28

1 who are or were employed at any time in the last four years. Plaintiff proposes the
2 following class definition:

3 All current and former Agents who worked for any Defendants in
4 California at any time from June 21, 2014 through judgment.

5 Plaintiff reserves the right to amend the putative class definition if necessary.

6 92. Plaintiff shares the same interests as the putative class and will be entitled
7 under the California Labor Code to unpaid overtime compensation, attorneys' fees, and
8 costs and lost interest owed to them under nearly identical factual and legal standards as
9 the remainder of the putative class.

10 93. The putative Class meets the numerosity requirement of Rule 23(a)(1)
11 because, during the relevant period, Defendants employed hundreds of Agents throughout
12 California. The Class members are so numerous that joinder of all such persons is
13 impracticable and that the disposition of their claims in a class action rather than in
14 individual actions will benefit the parties and the Court. The precise number of Class
15 members should be readily available from a review of Defendants' personnel, scheduling,
16 time, phone, and payroll records, and from input received from the putative Class
17 members.

18 94. The putative Class meets the commonality requirement of Rule 23(a)(2)
19 because, during the relevant period, Defendants engaged in a common course of conduct
20 that violated the legal rights of Plaintiff and the Class. Individual questions that
21 Plaintiff's claims present, to the extent any exist, will be far less central to this litigation
22 than the numerous material questions of law and fact common to the Class, including but
23 not limited to:

- 24 a. Whether Defendants engaged in a policy or practice of failing to
25 pay each Class member regular wages for all time worked.
26 b. Whether Defendants engaged in a policy or practice of failing to
27 pay each Class member overtime compensation for each overtime
28 hour worked;
c. Whether Defendants engaged in a policy or practice of failing to

1 pay each Class member's bonuses;

- 2 d. Whether Defendants violated sections 201 to 203 of the Labor
3 Code by willfully failing to pay all wages and compensation due
4 each Class member who quit or who was discharged;
- 5 e. Whether Defendants violated section 226 of the Labor Code by
6 willfully failing to provide accurate itemized wage statements
7 showing the number of hours worked by each Class member and
8 the corresponding hourly rate;
- 9 f. Whether Defendants violated sections 1174 and 1175 of the Labor
10 Code and the applicable Industrial Welfare Commission Orders by
11 failing to maintain records pertaining to when Class members
12 began and ended each work period, the total daily hours worked,
13 and the total hours worked per pay period;
- 14 g. Whether Defendants violated section 510 of the Labor Code and
15 the applicable Industrial Welfare Commission Orders by failing to
16 accurately calculate regular rates of pay for overtime purposes;
- 17 h. Whether Defendants were unjustly enriched by the work and
18 services performed by Class members without compensation;
- 19 i. Whether Defendants engaged in unfair business practices in
20 violation of Business and Professions Code section 17200, *et seq.*;
21 and
- 22 j. Whether Defendants should be required to pay compensatory
23 damages, attorneys' fees, penalties, costs, and interest for violating
24 California state law.

25 95. The status of all individuals similarly situated to Plaintiff raises an identical
26 legal question: whether Defendants' Agents are entitled to back wages, including
27 overtime.

28 96. The putative Class meets the typicality requirement of Rule 23(a)(3) because
Plaintiff and the putative Class members were all employed by Defendants and
performed their job duties without receiving wages, including overtime wages, owed for
that work.

1 104. Plaintiff and the FLSA Collective members, by virtue of their job duties and
2 activities actually performed, are all non-exempt employees.

3 105. Defendants are not “retail or service establishments” as defined by 29 U.S.C.
4 § 213(a)(2) of the FLSA.

5 106. Plaintiff either: (1) engaged in commerce; or (2) engaged in the production of
6 goods for commerce; or (3) was employed in an enterprise engaged in commerce or in the
7 production of goods for commerce.

8 107. At all times relevant to this action, Defendants “suffered or permitted”
9 Plaintiff and all similarly situated current and former employees to work and thus
10 “employed” them within the meaning of 29 U.S.C. § 203(g) of the FLSA.

11 108. At all times relevant to this action, Defendants required Plaintiff and the
12 FLSA Collective members to perform off-the-clock work each shift, but failed to pay
13 these employees the federally mandated overtime compensation for this work.

14 109. The off-the-clock work performed every shift by Plaintiff and the FLSA
15 Collective members is an essential part of their jobs and these activities and the time
16 associated with these activities is not *de minimis*.

17 110. In workweeks where Plaintiff and other FLSA Collective members worked
18 40 hours or more, the uncompensated off-the-clock work time, and all other overtime
19 should have been paid at the federally mandated rate of 1.5 times each employee’s
20 *regularly* hourly wage. 29 U.S.C. § 207.

21 111. Defendants’ violations of the FLSA were knowing and willful. Defendants
22 knew or could have determined how long it took for their Agents to perform their off-the-
23 clock work. Further, Defendants could have easily accounted for and properly
24 compensated Plaintiff and the FLSA Collective for these work activities, but did not.

25 112. The FLSA, 29 U.S.C. § 216(b), provides that as a remedy for a violation of
26 the Act, each employee is entitled to his or her unpaid wages (including unpaid
27 overtime), plus an additional equal amount in liquidated damages (double damages), plus
28 costs and reasonable attorneys’ fees.

1 **COUNT II**
2 **VIOLATION OF CALIFORNIA LABOR CODE §§ 223, 1194, 1197, 1197.1**
3 **AND IWC WAGE ORDER 4 – FAILURE TO PAY MINIMUM WAGE AND**
4 **REGULAR WAGES FOR ALL HOURS WORKED**

5 113. Plaintiff re-allege and incorporate all previous paragraphs herein.

6 114. At all relevant times, Defendants regularly and consistently maintained
7 corporate policies and procedures designed to reduce labor costs by reducing or
8 minimizing the amount of compensation paid to their employees, regular wages for all
9 hours worked.

10 115. California Labor Code §§ 223, 1194, 1197, 1197.1 and Industrial Welfare
11 Commission (“IWC”) Wage Order No. 4 §§ 2(K), 4(B), provide that employees must be
12 paid no less than the applicable minimum wage for all hours worked. *See also Armenta v.*
13 *Osmose, Inc.*, 135 Cal. App. 4th 314, 323 (2005) (indicating that California’s Labor Code
14 requires payment for all hours worked at the employee’s regular rate of pay).

15 116. At all relevant times, Defendants failed and refused to pay Plaintiff and the
16 Rule 23 California Class members minimum wage and regular wages for all hours
17 worked including the off-clock-work alleged in this Complaint.

18 117. Defendants intentionally, maliciously, fraudulently and with the intent to
19 deprive Plaintiff and the Rule 23 California Class of their ability to earn a living so as to
20 reduce their labor costs, knowingly and willingly implemented a scheme or artifice to avoid
21 paying Plaintiff and other Rule 23 California Class members minimum wage and regular
22 wages for all hours worked.

23 118. Plaintiff and the Rule 23 California Class were entitled to receive wages at
24 their lawful regular rate of pay, including any shift differential where applicable, for all
25 hours worked including the off-the-clock work alleged in this Complaint. Defendants’
26 failure to pay such wages, as alleged above, was a willful violation of California Labor
27 Code §§ 223, 1194, 1197, 1197.1 and IWC Wage Order No. 4 §§ 2(K), 4(B)

28 119. Wherefore, Plaintiff demands payment of the unpaid balance of the full

1 amount of wages due for unpaid time worked at their lawful regular rate of pay, including
2 any shift differential where applicable, and including interest thereon, penalties,
3 reasonable attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194 and 1194.2,
4 as a result of Defendant's failure to pay for all time worked as is required under
5 California law.

6 **COUNT III**
7 **VIOLATION OF CALIFORNIA LABOR CODE §§ 510, 1194, 1198**
8 **AND IWC WAGE ORDER 4 – FAILURE TO PAY OVERTIME**

9 120. Plaintiff re-alleges and incorporates all previous paragraphs herein.

10 121. At all relevant times, Defendants regularly and consistently maintained
11 corporate policies and procedures designed to reduce labor costs by reducing or
12 minimizing the amount of compensation paid to its employees, especially overtime
13 compensation.

14 122. At all relevant times, Plaintiff and the Class regularly performed non-exempt
15 work and were thus subject to the overtime requirements of California law.

16 123. Labor Code §§ 510 and 1198 and Industrial Welfare Commission ("IWC")
17 Wage Order No. 4 § 3(A) provide that: (a) employees are entitled to compensation at the
18 rate of one and one-half times their regular rate of pay for all hours worked in excess of
19 eight (8) hours in a workday up to twelve (12) hours in a workday, in excess of forty (40)
20 hours in a workweek, and for the first eight (8) hours of work on the seventh (7th)
21 consecutive day or a workweek; and (b) employees are entitled to compensation at the
22 rate of twice their regular rate of pay for all hours worked in excess of twelve (12) hours
23 in a workday, and in excess of eight (8) hours on the seventh (7th) consecutive day of
24 work in a workweek.

25 124. At all relevant times, Plaintiff and the Class regularly worked in excess of eight
26 (8) hours in a workday and/or in excess of forty (40) hours in a workweek.

27 125. At all relevant times, Defendants failed and refused to pay Plaintiff and the
28 Class members for any and all hours actually worked in excess of the scheduled shift.

126. Defendants intentionally, maliciously, fraudulently and with the intent to

1 deprive the Class of their ability to earn a living so as to reduce their labor costs, knowingly
2 and willingly implemented a scheme or artifice to avoid paying overtime by reducing the
3 rate of pay to Plaintiff and other Class members who worked overtime hours.

4 127. Plaintiff and the Class were entitled to receive overtime compensation at
5 their lawful regular rate of pay, including the shift differential where applicable.
6 Defendants' failure to pay lawful premium overtime wages, as alleged above, was a
7 willful violation of Labor Code §§ 510, 1198, and IWC Wage Order No. 4.

8 128. Wherefore, Plaintiff demands payment of the unpaid balance of the full
9 amount of wages due for unpaid time worked, as well as overtime premiums owing,
10 including interest thereon, penalties, reasonable attorneys' fees, and costs of suit pursuant
11 to Labor Code §§ 1194 and 1194.2 as a result of Defendants' failure to pay for all time
12 worked and such premium compensation, as is required under California law.

13 **COUNT III**
14 **VIOLATION OF CALIFORNIA LABOR CODE §§ 221 AND 223**
15 **UNLAWFUL DEDUCTIONS**

16 129. Plaintiff re-alleges and incorporates all previous paragraphs herein.

17 130. At all relevant times, Defendants regularly and consistently maintained
18 corporate policies and procedures designed to reduce labor costs by reducing or
19 minimizing the amount of compensation paid to their employees, especially overtime
20 compensation, minimum wage and regular wages for all hours worked.

21 131. Defendant made deductions from Plaintiffs and the Rule 23 California Class
22 members' paychecks in the amount of the bonuses and commissions, overtime premiums,
23 and regular wages earned by the employees during the pay period so as to avoid paying
24 bonuses and commissions, overtime compensation, and regular wages.

25 132. California Labor Code § 221 provides it is unlawful for any employer to
26 collect or receive from an employee any part of wages theretofore paid by employer to
27 employee.

28 133. As a result of the conduct alleged above, Defendant has unlawfully collected
or received from Plaintiffs and the Rule 23 California Class part of the wages paid to

1 their employees.

2 134. Wherefore, Plaintiffs demand the return of all wages unlawfully deducted
3 from the paychecks, including interest thereon, penalties, reasonable attorneys' fees, and
4 costs of suit pursuant to Labor Code §§ 225.5 and 1194.

5 **COUNT IV**
6 **VIOLATION OF CALIFORNIA LABOR CODE § 226 and 1174**
7 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

8 135. Plaintiff re-alleges and incorporates all previous paragraphs herein.

9 136. Labor Code §§ 226 and 1174 provide that every employer shall, semi-
10 monthly or at the time of payment of wages, furnish each employee, either as a
11 detachable part of the check or separately, an accurate, itemized statement in writing
12 showing the total hours worked, and the applicable hourly rates and corresponding total
13 number of hours worked.

14 137. At all relevant times, Defendants failed to maintain proper records and
15 furnish Plaintiff and the Class members, either semi-monthly or at the time of each
16 payment of wages, an accurate, itemized statement conforming to the requirements of
17 Labor Code §§ 226 and 1174.

18 138. At all relevant times, Defendants failed to furnish Plaintiff and the Class
19 members with accurate wage statements in writing, showing: (1) gross wages earned; (2)
20 total hours worked by each respective employee; (3) all deductions; (4) net wages earned;
21 (5) the inclusive dates of the period for which the employee is paid; (6) the name of the
22 employee and only the last four digits of his or her social security number or an employee
23 identification number; (7) the name and address of the legal entity that is the employer;
24 and (8) all applicable hourly rates in effect during the pay period and the corresponding
25 number of hours worked at each hourly rate.

26 139. Plaintiff is informed and believes that Defendants knew or should have
27 known that Plaintiff and the Class members were entitled to receive wage statements
28 compliant with Labor Code § 226 and 1174, and that Defendants willfully and

1 intentionally failed to provide Plaintiff and the Class members with such accurate,
2 itemized statements showing, for example, accurate hours and overtime calculations.

3 140. Wherefore Plaintiff demands that Defendants pay each and every Class
4 member fifty dollars (\$50.00) for the initial pay period in which the violation occurred
5 and one hundred dollars (\$100) for each subsequent violation, up to a maximum of four
6 thousand dollars (\$4,000.00) pursuant to Labor Code § 226, as well as reasonable
7 attorneys' fees and costs.

8 **COUNT V**
VIOLATION OF CALIFORNIA LABOR CODE §§ 201, 202, AND 203
WAITING TIME VIOLATIONS

9 141. Plaintiff re-alleges and incorporates all previous paragraphs herein.

10 142. California Labor Code §§ 201 and 202 requires employers to pay their
11 employees all wages due within the time specified by law. California Labor Code § 203
12 provides that if an employer willfully fails to timely pay such wages, the employer must,
13 as a penalty, continue to pay the subject employees' wages until the back wages are paid
14 in full or an action is commenced, up to a maximum of thirty days of wages.

15 143. Plaintiff and the Rule 23 California Class members who ceased employment
16 with Defendant are entitled to unpaid compensation, but to date have not received such
17 compensation.

18 144. More than thirty days have passed since Plaintiffs and certain Rule 23
19 California Class members left Defendants' employ.

20 145. As a consequence of Defendants' willful conduct in not paying compensation
21 for all hours worked, Plaintiffs and the Rule 23 California Class members whose
22 employment ended during the class period are entitled to thirty days' wages under
23 California Labor Code § 203, together with interest thereon and attorneys' fees and costs.

24 **COUNT VI**
VIOLATION OF BUSINESS AND PROFESSIONS CODE, § 17200, et seq.
UNFAIR, UNLAWFUL AND/OR FRAUDULENT BUSINESS PRACTICES

25 146. Plaintiff re-alleges and incorporates all previous paragraphs herein.

26 147. Defendants engaged and continues to engage in unfair business practices in
27
28

1 California by practicing, employing and utilizing the unlawful practices described above,
2 including: (a) training and directing Agents to work off-the-clock without compensation;
3 (b) making deductions to Agents' paychecks to recover overtime premiums earned by
4 the employee; (c) requiring Agents to work overtime without lawful premium
5 compensation; (d) failing to provide lawful meal breaks or premium compensation in
6 lieu thereof; and (e) failing to provide accurate, itemized wage statements.

7 148. In addition, the conduct alleged in each of the previously stated causes of
8 action constitute an unlawful and unfair business practice within the meaning of Business
9 & Professions Code § 17200, *et seq.*

10 149. As a result of Defendants' conduct, Plaintiff and the Class have been harmed
11 as described in the allegations set forth above.

12 150. The actions described above constitute false, unfair, fraudulent, and deceptive
13 business practices within the meaning of California Business & Professions Code §
14 17200, *et seq.* By and through such unfair, unlawful and/or fraudulent business practices,
15 Defendants obtained valuable property, money and services from Plaintiff and the Class,
16 and have deprived Plaintiff and the Class fundamental rights and privileges guaranteed to
17 all employees under California law.

18 151. Defendants were unjustly enriched by the policies and practices described
19 herein, and those policies and practices conferred an unfair business advantage on
20 Defendants over other businesses providing similar services which routinely comply with the
21 requirements of California law.

22 152. Plaintiff seeks, on her own behalf, and on behalf of the putative Class
23 members, full restitution of all monies withheld, acquired and/or converted by
24 Defendants by means of the unfair practices complained of herein, as necessary and
25 according to proof, and/or disgorgement of all profits acquired by Defendants by means
26 of the acts and practices described herein.

27 153. Plaintiff seeks, on her own behalf, and on behalf of other Class members
28 similarly situated, an injunction to prohibit Defendants from continuing to engage in the

1 unfair business practices complained of herein. Defendants' unlawful conduct, as described
2 above, unless and until enjoined and restrained by order of this Court, will cause great and
3 irreparable injury to Plaintiff and all Class members in that Defendants will continue to
4 violate these California laws unless specifically ordered to comply with the same. This
5 expectation of future violations will require current and future employees to repeatedly and
6 continuously seek legal redress in order to gain compensation to which they are entitled
7 under California law. Plaintiff has no other adequate remedy at law to insure future
8 compliance with the California labor laws and wage orders alleged to have been violated
9 herein.

10 **COUNT VII**
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

11 154. Plaintiff re-alleges and incorporates all previous paragraphs herein.

12 155. Defendants contracted with Plaintiff, and other members of the Class, to
13 provide their labor, in return for a set hourly compensation and a bonus and/or
14 commission for each debt relief services lead generated.

15 156. Defendants were responsible for accurately accounting for the number of
16 leads generated by Plaintiff and each Class Member, and paying them accordingly.

17 157. Defendants failed to properly account, and pay, for each lead generated by
18 Plaintiff and members of the Class, breaching the implied covenant of good faith and fair
19 dealing.

20 158. Accordingly, Plaintiff seeks, on her own behalf, and on behalf of other Class
21 members similarly situated, damages in the amount of any unpaid bonuses and/or
22 commissions improperly withheld by Defendants.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff on her own behalf and on the behalf of the putative
25 Collective and Class members, request judgment as follows:

- 26 a. Certifying this case as a collective action in accordance with 29 U.S.C. §
27 216(b) with respect to the FLSA claims set forth above;
- 28 b. Designating the named Plaintiff as Representative of the proposed FLSA
collective;

- 1 c. Ordering Defendant to disclose, in computer format, or in print if no
2 computer readable format is available, the names and addresses of all those
3 individuals who are similarly situated, and permitting Plaintiff to send notice
4 of this action to all those similarly situated individuals including the
5 publishing of notice in a manner that is reasonably calculated to apprise the
6 potential class members of their rights under the FLSA;
- 7 d. Certifying the proposed Rule 23 Class;
- 8 e. Designating Plaintiff as representative of the proposed Rule 23 Class;
- 9 f. Appointing Plaintiff's counsel as Class Counsel;
- 10 g. Declaring that Defendants willfully violated the Fair Labor Standards Act
11 and its attendant regulations as set forth above;
- 12 h. Granting judgment in favor of Plaintiff and against Defendants and awarding
13 the amount of unpaid overtime wages calculated at the rate of one and one-
14 half (1.5) of Plaintiff's regular rate (multiplied by all off-the-clock hours that
15 Plaintiff worked in excess of eight (8) hours per day and/or forty (40) hours
16 per week for the past four years);
- 17 i. Granting judgment in favor of Plaintiff and against Defendants and awarding
18 the amount of unpaid overtime wages calculated at the rate of two (2) of
19 Plaintiff's regular rate (multiplied by all off-the-clock hours that Plaintiff
20 worked in excess of twelve (12) hours per day and/or in excess of eight (8)
21 hours in the seventh day of the workweek);
- 22 j. Granting judgment in favor of Plaintiff and against Defendants and awarding
23 the amount of unpaid commissions and bonuses owed;
- 24 k. Awarding liquidated damages in an amount equal to the amount of unpaid
25 overtime wages found due and owing;
- 26 l. For statutory and civil penalties pursuant to Labor Code §§ 225.5, 226(e),
27 226.3, and 226.7;
- 28 m. For disgorgement and restitution to Plaintiff and other similarly effected
Class members of all funds unlawfully acquired by Defendants by means of
any acts or practices declared by this Court to violate the mandate
established by California Business and Professions Code § 17200, *et seq.*;
- n. For the appointment of a receiver to receive, manage and distribute any and
all funds disgorged from Defendants and determined to have been wrongfully
acquired by Defendants as a result of violations of California Business and
Professions Code § 17200, *et seq.*;
- o. For an injunction prohibiting Defendants from engaging in the unfair
business practices complained of herein;
- p. For an injunction requiring Defendants to give notice to persons to whom
restitution is owing of the means by which to file for restitution;

- 1 q. For actual damages or statutory penalties according to proof as set forth in California Labor Code §§ 226, 1174, and IWC Wage Order No. 7, § 7(A) related to record keeping;
- 2
- 3 r. For an order requiring Defendants to show cause, if any there be, why they should not be enjoined and ordered to comply with the applicable California Industrial Welfare Commission wage orders related to record keeping for Defendants’ employees related to same; and for an order enjoining and restraining Defendants and their agents, servants and employees related thereto;
- 4
- 5
- 6 s. For pre-judgment interest as allowed by California Labor Code §§ 218.6, 1194 and 2802(b) and California Civil Code § 3287 and other statutes;
- 7
- 8 t. Awarding civil penalties pursuant to California Labor Code § 2698, *et seq.*;
- 9 u. For reasonable attorneys’ fees, expenses, and costs as provided by the FLSA, California Labor Code §§ 218.5, 226(e) and (g), 1194, 2802 and California Code of Civil Procedure § 1021.5; and
- 10
- 11 v. For such other and further relief the Court may deem just and proper.

JURY DEMAND

12 Plaintiff, individually and on behalf of all others similarly situated, by and through
13 her attorneys, hereby demands a trial by jury pursuant to Rule 38 of the Federal Rules of
14 Civil Procedure and the court rules and statutes made and provided with respect to the
15 above entitled cause.
16

17 Respectfully Submitted,

18 Dated: June 21, 2018

/s/ Trenton R. Kashima

19
20
21 Trenton R. Kashima, Esq.
22 FINKELSTEIN & KRINSK, LLP
23 550 West C St., Suite 1760
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Jesse L. Young (*pro hac vice forthcoming*)
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SOMMERS SCHWARTZ, P.C.

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*Counsel for Plaintiff and Proposed Class
and Collective Members*

CIVIL COVER SHEET

18CV1371 GPC KSC

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
EBONY HUDSON, individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff San Diego
(c) Attorneys (Firm Name, Address, and Telephone Number)
FINKELSTEIN & KRINSK LLP
550 West C Street, Ste. 1760
San Diego, CA 92101
619-238-1333

DEFENDANTS
LIBRE TECHNOLOGY INC., doing business as Student Loan Service, Docupop, and Student Loan Service, US; ANTONY MURIGU; JASON BLACKBURN; and BRIAN BLACKBURN.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Click here for: Nature of Suit Code Descriptions.
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans, 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise.
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property.
TORTS: PERSONAL INJURY (310-367), PERSONAL PROPERTY (370-385), PRISONER PETITIONS (463-560).
FORFEITURE/PENALTY: 625 Drug Related Seizure, 690 Other.
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act.
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions.
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157.
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 840 Trademark.
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g)).
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609.
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Fair Labor Standards Act of 1938
Brief description of cause:
Class action complaint for the recovery of wages.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 06/21/2018
SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

EBONY HUDSON, individually and on behalf of all others similarly situated,

Case No.:

Plaintiff,

**CONSENT TO JOIN
COLLECTIVE ACTION**

v.

LIBRE TECHNOLOGY INC., doing business as Student Loan Service, Docupop, and Student Loan Service, US; **ANTONY MURIGU; JASON BLACKBURN; and BRIAN BLACKBURN.**

Defendants.

I state that I worked as a call center agent for Defendants Libre Technology Inc., Antony Murigu, Jason Blackburn, and Brian Blackburn, within three years of the filing of the above captioned action, and during part of that time was required by them to perform work for which I was not compensated and/or was required to work in excess of 40 hours per week without receiving overtime compensation for the same.

I hereby consent to sue Defendants for damages including unpaid overtime premiums under the federal Fair Labor Standards Act, 29 U.S.C. § 216(b). I hereby designate Sommers Schwartz, P.C. and Finkelstein & Krinsk LLP to represent me in this action.

Dated: June 11, 2018

Signed: 

Name (Print): Ebony Hudson

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Libre Technology Accused of Wage Violations in California](#)
