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17 *Attorneys for Plaintiff and the Proposed Class*

19 **UNITED STATES DISTRICT COURT**  
20 **NORTHERN DISTRICT OF CALIFORNIA**  
21 **SAN FRANCISCO DIVISION**

21 MARCELLA JOHNSON,  
22 On Behalf of Herself and All Others  
23 Similarly Situated,

24 **PLAINTIFF,**

25 v.

26 ORACLE AMERICA, INC.,

27 **DEFENDANT.**  
28

Case No. \_\_\_\_\_

**COMPLAINT**  
**CLASS ACTION**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Marcella Johnson (“Plaintiff” or “Ms. Johnson”), individually and on  
2 behalf of all others similarly situated, brings this Class Complaint against Defendant  
3 Oracle America, Inc. (“Defendant” or “Oracle”). Plaintiff alleges upon knowledge as to  
4 herself and her own acts, and otherwise upon information and belief, as follows:

5 **INTRODUCTION**

6 1. Plaintiff, a former sales representative employed by Oracle, brings this  
7 class lawsuit against Oracle on behalf of herself and all others similarly situated to  
8 recover commission wages unlawfully withheld by Oracle in violation of contract and the  
9 California Labor Code.

10 2. A Fortune 100 technology giant, Oracle has systematically stiffed its  
11 salesforce of earned commission wages for many years, by scrapping contractual  
12 compensation plans when they yield commission earnings that are higher than Oracle  
13 would prefer to pay and retroactively imposing inferior – *i.e.* less remunerative – numeric  
14 terms. Simply put, Oracle routinely decides to change commission formulas so as to  
15 reduce commission payments on past sales, well after the commissions have been earned  
16 and even sometimes after they have been paid.

17 3. Oracle coerces employees into accepting re-plans by threatening that if  
18 they fail to accept the new commission plans within 24 hours, they will not be paid  
19 pending commissions at all. Even if a bold employee refuses to agree to an inferior re-  
20 plan, Oracle barrels ahead anyway, applying the re-plan terms to both past and future  
21 sales.

22 4. As a result of re-plans, Oracle “claws back” previously paid commissions.  
23 If employees cannot afford to fork over substantial sums, employees are left with a  
24 Hobson’s choice: pay off the supposed debt by continuing to work for Oracle without  
25 being paid commissions or be threatened with a collections lawsuit if they leave before  
26 completely paying off their negative commission balance.

27 5. To ordinary employees, Oracle is not transparent or upfront about when  
28 and why it does “re-plans,” however. Sales employees only see that their commissions

1 are reduced or being clawed back by Oracle and, if they press for explanations, they may  
2 be told that they were re-planned. These re-plans are rooted in compensation policies  
3 which unlawfully provide that Oracle can reduce commissions retroactively based on  
4 opaque and secret criteria.

5 6. Although seemingly arbitrary to the sales employees, Oracle's practices  
6 are anything but. Led by the finance department and supported by sales operations and  
7 compensation department employees, Oracle reduces commissions through systematic  
8 processes designed to align commissions with financial forecasts and bottom line goals.  
9 Over the years, Oracle has taken millions of dollars from commission wages to add to its  
10 bottom line.

11 7. Oracle's commission policies and practices violate the contractual  
12 compensation plans accepted by sales employees. They violate the California Labor  
13 Code's prohibitions on deducting wages to defray ordinary business costs and secretly  
14 paying a lower wage while purporting to pay the wage designated by contract. They  
15 contradict the Labor Code requirement that commission contracts be transparent about  
16 the methods for computing and paying commissions. They are fundamentally unfair  
17 business practices.

18 8. Through this class action, Plaintiff challenges Oracle's practice of  
19 imposing retroactive changes in commission plans that result in loss of pay. Plaintiff  
20 seeks to recover unpaid wages, waiting time penalties, reasonable attorneys' fees and  
21 costs, and all other appropriate relief to which Plaintiff and class members are entitled.

22 **JURISDICTION AND VENUE**

23 9. This Court has subject matter jurisdiction over Plaintiff's claims pursuant  
24 to 28 U.S.C. § 1332(d), the Class Action Fairness Act. The amount in controversy  
25 exceeds \$5,000,000 and there are members of the proposed Class who are citizens of a  
26 State different from the States of citizenship of Defendant Oracle.

27 10. Venue is proper in this Court pursuant to 28 U.S.C. Section 1391(b)  
28 because Defendant is headquartered in and conducts substantial business in the Northern

1 District of California and a substantial part of the events or omissions giving rise to the  
2 claims occurred in this District.

3 **INTRADISTRICT ASSIGNMENT**

4 11. This action is properly assigned to the San Francisco Division of this  
5 District pursuant to Civil Local Rule 3-2(c) and (d) because a substantial part of the  
6 events or omissions which give rise to the claim occurred in San Mateo County, which is  
7 served by the San Francisco Division.

8 **THE PARTIES**

9 12. Defendant Oracle is a Delaware Corporation with its corporate  
10 headquarters in Redwood City, San Mateo County, California.

11 13. Oracle was and is an employer under the California Labor Code and  
12 common law.

13 14. Oracle employed Plaintiff and other employees performing sales work for  
14 Oracle in California.

15 15. Plaintiff Marcella Johnson is an individual residing currently in Modesto,  
16 California. She worked for Oracle in 2013 and 2014 in Oracle's offices in Redwood City.

17 **CLASS ACTION ALLEGATIONS**

18 16. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23 seeking  
19 injunctive and monetary relief for Oracle's systemic refusal to pay full commissions  
20 earned by sales employees.

21 **A. Class Definition**

22 17. The proposed Class consists of all commissioned sales employees who  
23 have been or will be employed by Oracle in California at any time from the date that is  
24 four years before the filing of this Complaint to the present, to whom Oracle issued  
25 revised commission agreements which retroactively applied inferior – *i.e.* less  
26 remunerative – numeric terms (including but not limited to higher quotas and lower  
27 commission rates) to completed sales.

28 18. Plaintiff is a member of the Class she seeks to represent.

1 19. The sales commission practices described herein have been and are  
2 continuing in nature.

3 20. Plaintiff reserves the right to amend the class definition based on  
4 discovery or legal developments.

5 **B. Requirements of Rule 23(a) and Rule 23(b)(3)**

6 **i. Numerosity and Impracticability of Joinder**

7 21. The proposed Class is so numerous that joinder of all members is  
8 impracticable.

9 22. Upon information and belief, there are more than 1,000 members of the  
10 proposed Class.

11 23. The Class members are ascertainable through Oracle's centralized and  
12 electronically maintained records.

13 **ii. Common Questions of Law and Fact**

14 24. The prosecution of Plaintiff's claims will require the adjudication of  
15 numerous questions of law and fact common to the Class. The common questions of law  
16 and fact predominate over any questions affecting only individual Class members. The  
17 common questions include:

- 18 a. Whether Defendant retroactively reduced commission wages by  
19 applying revised commission agreements containing inferior – *i.e.* less  
20 remunerative – numeric terms;
- 21 b. Whether the terms of Defendant's standardized commission contracts  
22 comply with California law governing earned commission wages;
- 23 c. Whether terms within Defendant's standardized commission contracts  
24 comply with California Labor Code Section 2751;
- 25 d. Whether Defendant's commission policies and practices comply with  
26 California Labor Code Section 221; and
- 27 e. Whether Defendant's commission policies and practices comply with  
28 California Labor Code Section 223.

1           **iii. Typicality of Claims and Relief Sought**

2           25. Plaintiff has suffered the same violations and similar injuries as other  
3 Class members arising out of and caused by Defendant’s common course of conduct. All  
4 Class members were subject to the same corporate practices, as alleged herein, of  
5 reducing commission payments.

6           26. Plaintiff possesses and asserts each of the claims she asserts on behalf of  
7 the proposed Class. She seeks similar relief as other Class members.

8           **iv. Adequacy of Representation**

9           27. Plaintiff’s interests are coextensive with those of the members of the  
10 proposed Class. Plaintiff is willing and able to represent the proposed Class fairly and  
11 vigorously as she pursues her similar individual claims in this action.

12           28. Plaintiff has retained counsel sufficiently qualified, experienced, and able  
13 to conduct this litigation and to meet the time and fiscal demands required to litigate a  
14 class action of this size and complexity.

15           **v. Efficiency of Class Prosecution of Class Claims**

16           29. A class action is superior to other available means for the fair and efficient  
17 adjudication of this controversy. A class action is superior to other available methods for  
18 the fair and efficient adjudication of the controversy – particularly where individual class  
19 members lack the financial resources to vigorously prosecute a lawsuit against a large  
20 corporation such as Oracle.

21           30. Class action treatment will permit a large number of similarly situated  
22 persons to prosecute their common claims in a single forum simultaneously, efficiently,  
23 and without the unnecessary duplication of efforts and expense that numerous individual  
24 actions engender.

25           31. Current employees are often afraid to assert their rights out of fear of  
26 direct or indirect retaliation. Former employees are often fearful of bringing claims  
27 because doing so can harm their employment, future employment, and future efforts to  
28 secure employment. Class actions provide class members who are not named in the

1 complaint a degree of anonymity which allows for the vindication of their rights while  
2 eliminating or reducing these risks.

3 32. The prosecution of separate actions by individual members of the Class  
4 would create a risk of inconsistent and/or varying adjudications with respect to the  
5 individual members of the Class, establishing incompatible standards of conduct for  
6 Defendant and resulting in the impairment of Class members' rights and the disposition  
7 of their interests through actions to which they were not parties.

8 33. The issues in this class action can be decided by means of common, class-  
9 wide proof. In addition, the Court can, and is empowered to, fashion methods to  
10 efficiently manage this action as a class action.

11 **C. Requirements of Rule 23(b)(2)**

12 34. Oracle has acted on grounds generally applicable to Plaintiff and the  
13 proposed Class by adopting and following systemic policies, practices, and procedures  
14 that deprive sales employees of earned commission wages. Refusal to pay all commission  
15 wages is Oracle's standard operating procedure rather than a sporadic occurrence.

16 35. Oracle has acted or refused to act on grounds generally applicable to  
17 Plaintiff and the proposed Class. Oracle's systemic conduct justifies the requested  
18 injunctive and declaratory relief with respect to the Class as a whole.

19 36. Injunctive, declaratory, and affirmative relief are a predominant form of  
20 relief sought in this case. Entitlement to declaratory, injunctive, and affirmative relief  
21 flows directly and automatically from proof of Oracle's refusal to pay all commission  
22 wages. In turn, entitlement to declaratory, injunctive, and affirmative relief forms the  
23 factual and legal predicate for the monetary and non-monetary remedies for individual  
24 losses caused by Oracle's systemic refusal to pay full commissions.

25 **D. Rule 23(c)(4) Issue Certification**

26 37. Additionally, or in the alternative, the Court may grant "partial" or "issue"  
27 certification under Rule 23(c)(4). Resolution of common questions of fact and law would  
28 materially advance the litigation for all Class members.

FACTS

**A. Oracle’s Sales Commissions Policies, Practices and Procedures**

38. Defendant Oracle committed the following acts knowingly, intentionally and willfully.

39. The Oracle policies, practices and procedures alleged in this Complaint existed at all relevant times, *i.e.*, going back at least four years from the date of this Complaint, and they are continuous and ongoing.

40. Typically, commission wages constitute a significant portion of Oracle sales employees’ compensation.

41. When Oracle hires sales employees, it offers and the employees accept compensation in the form of base salary and commissions.

42. Oracle provides each sales employee with an Individualized Compensation Plan (“Comp Plan”) containing commission rates, sales targets (*i.e.*, quotas) and other numeric terms, along with written Terms and Conditions of Incentive Compensation (“T&C”). The Comp Plan sets forth the formula by which commissions are to be calculated.

43. Oracle considers the Comp Plan and the T&C to be the commission contract required by California Labor Code Section 2751.

44. The T&C is identical for all Class members.

45. After an employee starts work in a sales position, Oracle issues the commission contract to the employee through a process of electronically distributing and obtaining employee acceptance of the T&C and the Comp Plan.

46. Oracle requires employees to first click “accept” for the T&C, after which Oracle then provides the Comp Plan to the employees. Next, employees are asked to click “accept” for the Comp Plans. Compliance with this acceptance process is required for employees to be eligible to receive commission payments for past and future work.

47. At various points after an initial Comp Plan is in place, Oracle issues revised Comp Plans to some employees through this same procedure. Typically, Oracle



1 issues revised Comp Plans to employees soon after the start of the fiscal year – usually  
2 sometime in mid-to-late June. Oracle also issues revised Comp Plans at other times.

3 48. Revised Comp Plans that affect past sales retroactively are known as “re-  
4 plans.” Re-plans apply to sales transactions that have already been completed by Class  
5 members. Re-plans affect past sales going back to a date of Oracle’s choosing, sometimes  
6 to the beginning of the same fiscal year and sometimes to a date in a previous fiscal year.

7 49. The retroactivity is apparent based on the effective date stated on the face  
8 of the new Comp Plan.

9 50. Oracle’s commission contracts set forth conditions precedent to the  
10 payment of commissions. Generally, commissions are calculated and paid after  
11 transactions are booked or revenue is recognized. The T&C sets forth the commission  
12 calculation triggers and payment triggers for the different products sold by Oracle.

13 51. Oracle’s commission contracts contain identical clauses authorizing  
14 reductions to commissions. These uniform clauses state that Oracle has discretion to, at  
15 any time: (a) retroactively reduce commission payments and to otherwise determine the  
16 amount of commissions paid; and (b) to deviate from, modify, cancel and/or replace any  
17 term of a commission contract (*e.g.*, Comp Plan), such as the commission rates and  
18 quotas.

19 52. When sales employees press for explanations, Oracle cites to terms in the  
20 standardized commission contract that reserves discretion to Oracle to adjust  
21 commissions at any time.

22 53. Oracle’s criteria used to reduce commissions are not set forth in Oracle’s  
23 T&C or compensation plans.

24 54. By the terms of the commission contract, and in practice, Oracle possess  
25 total, unilateral discretion to reduce commission payments and terms by which  
26 commission are calculated at any time of its choosing, based on undisclosed criteria.

27 55. These contract terms are unlawful, void and unenforceable under  
28 California law. The law prohibits the use of such discretionary power to the deny

1 employees the benefits of their commission contracts.

2 56. Oracle commonly uses re-plans to retroactively reduce employees'  
3 commissions.

4 57. Typically, such a re-plan would reduce the commission rate and/or  
5 increases the quota. Instead of paying the commissions called for by the employee's  
6 Comp Plan in effect, Oracle replaces it with a Comp Plan containing a higher quota or a  
7 lower commission rate, and applies the revised numeric terms retroactively to sales  
8 transactions that Class members have already completed.

9 58. Thus, the re-plan is a mechanism of changing an employee's commission  
10 contract in a way that reduces commissions already earned.

11 59. Oracle's commission compensation policies and procedures are based on  
12 the overriding goal of aligning its financial performance with its financial forecasts. This  
13 is an ever-evolving process of scrutinizing and adjusting the Comp Plans that are in place  
14 and changing commission calculations occurring on booked transactions.

15 60. In so doing, Oracle reduces commissions to offset business costs which  
16 are beyond Oracle Employees' work and their control. Through the use of re-plans,  
17 Oracle effectively deducts ordinary costs of doing business from the earned commissions  
18 of sales employees.

19 61. The adjustments can occur at any time, including after commissions have  
20 already been paid to the employees. For example, Oracle sometimes issues a re-plan for  
21 an already-concluded fiscal year, months after the end of a fiscal year, with the effect of  
22 reducing the commissions for the prior year.

23 62. If commissions have already been paid to the employee, but the  
24 commissions have been retroactively reduced, Oracle "claws back" the commissions  
25 already earned and paid. Current employees either have to continue working for Oracle  
26 without getting paid any commissions – as newly earned commissions are deducted to  
27 pay off the negative commissions balance – or face the prospect of a collection demand  
28 and legal claim from Oracle.

1 63. It is Oracle's policy and practice to implement such clawbacks by  
2 deducting monies from commissions as they are earned by employees who continue  
3 working, and by demanding repayment from former employees.

4 **B. Plaintiff Marcella Johnson**

5 64. Plaintiff Marcella Johnson's experience is typical and illustrative.

6 65. Plaintiff joined Oracle in March 2013. Plaintiff worked in a division called  
7 Human Capital Management, selling Oracle software for managing human resources and  
8 personnel.

9 66. Oracle issued the T&C and a Comp Plan to Plaintiff in accordance with  
10 the standard procedures described above.

11 67. Plaintiff did not receive any commission payments from the start of her  
12 employment until November 2013.

13 68. In November 2013 and December 2013, Oracle paid Plaintiff commission  
14 wages for numerous completed sales transactions in accordance with the numeric terms  
15 of the Comp Plan then in effect.

16 69. After these payments, Plaintiff was "re-planned" and given a lower  
17 commission rate, which Oracle applied retroactively to the beginning of the fiscal year,  
18 June 2013.

19 70. This re-plan reduced Plaintiff's earned commissions on past sales  
20 transactions significantly. After the re-plan, Plaintiff suddenly had a negative  
21 commission balance of approximately \$20,000.

22 71. The re-plan resulted in a "negative commission balance" because Oracle's  
23 previous payments to Plaintiff were greater than the total commissions resulting from the  
24 new, lower rate. According to Oracle, after the re-plan, the previous payments caused an  
25 overpayment and now Oracle could clawback the "negative commission balance."

26 72. Oracle's Compensation Department informed Plaintiff that pursuant to the  
27 T&C, if she stopped working for Oracle, Oracle would have the right to collect the  
28 negative balance from her, including through a lawsuit.

1 73. Plaintiff could not afford to repay Oracle. As a result, Plaintiff felt she  
2 had no choice but to continue working for Oracle for months without being paid any  
3 commissions. The new commissions she earned were levied by Oracle to offset the  
4 “negative commission balance” resulting from retroactive imposition of the inferior  
5 commission rate.

6 74. Plaintiff resigned from her position at Oracle effective July 2014. Plaintiff  
7 resigned as soon as she had earned sufficient additional commissions to pay off the  
8 negative commission balance.

9 75. Other sales employees in Human Capital Management were also re-  
10 planned with inferior numeric terms in the same fiscal year.

11 76. Like Plaintiff, and regardless of the year and their sales group, other sales  
12 employees have been deprived of commission payments due to similar re-plans. Like  
13 Plaintiff, other Class members have suffered retroactive changes to the numeric terms of  
14 commission agreements resulting in a loss of pay.

15 **FIRST CLAIM FOR RELIEF**  
16 **FAILURE TO PAY COMMISSION WAGES IN BREACH OF CALIFORNIA**  
17 **LABOR CODE AND CONTRACT**  
**(On Behalf of Plaintiff and the Class)**

18 77. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 78. Plaintiff and Class members earned commission wages within the  
20 meaning of California Labor Code Sections 200 and 204.1.

21 79. Oracle has knowingly, intentionally and willfully failed and refused to pay  
22 to Plaintiff and Class members the full and complete amount of the commissions they  
23 earned. Oracle has operated under and continues to operate under a common policy and  
24 plan of failing and refusing to pay full earned commissions through the operation of its  
25 re-plan practices.

26 80. Plaintiff and Class members entered into written commission contracts  
27 with Defendant. These contracts provided that Defendant would pay commissions based  
28

1 on sales credited to Plaintiff and Class members in accordance with the commission rates  
2 set forth in their Compensation Plans.

3 81. Plaintiff and Class members have performed all of the duties and  
4 obligations required of them by Oracle that would entitle them to receive commissions.  
5 Plaintiff and Class members have met all lawful conditions precedent to the earning of  
6 commissions. Oracle has credited Plaintiff and Class members for sales that are  
7 encompassed by their commission contracts.

8 82. Oracle relies on contract provisions that allow Oracle to retroactively  
9 change commission terms at any time. These provisions are void and unenforceable  
10 exculpatory clauses under California Civil Code Section 1668.

11 83. Furthermore, these contract provisions that allow Oracle to retroactively  
12 change commission terms at any time are unlawful, void and unenforceable under  
13 California Labor Code Sections 221, 223 and 2751.

14 84. Labor Code Section 221 states: "It shall be unlawful for any employer to  
15 collect or receive from an employee any part of wages theretofore paid by said employer  
16 to said employee." California's Industrial Welfare Commission Wage Orders prohibit  
17 employers from using earned wages to offset ordinary business costs.

18 85. Oracle's use of re-plans to avoid paying earned commissions, including by  
19 clawing back previously paid compensation, constitutes unlawful withholdings or  
20 deductions of earned wages in violation of Section 221.

21 86. Labor Code Section 223 states: "Where any statute or contract requires an  
22 employer to maintain the designated wage scale, it shall be unlawful to secretly pay a  
23 lower wage while purporting to pay the wage designated by statute or by contract."

24 87. Oracle secretly underpays commission wages while purporting to follow  
25 the commission rates designated by contract in violation of Section 223.

26 88. Labor Code Section 2751 states, in pertinent part: "Whenever an employer  
27 enters into a contract of employment with an employee for services to be rendered within  
28 this state and the contemplated method of payment of the employee involves

1 commissions, the contract shall be in writing and shall set forth the method by which the  
2 commissions shall be computed and paid.”

3 89. Oracle relies on methods for the computation and payment of  
4 commissions that are not set forth in the commission contract in violation of Section  
5 2751.

6 90. Individually and collectively, Labor Code Sections 221, 223 and 2751 and  
7 Civil Code Section 1668 invalidate Oracle’s illegal contract provisions and give rise to  
8 Plaintiff and Class members’ claim for unpaid wages under the valid and enforceable  
9 terms of their written commission contracts.

10 91. Pursuant to California Labor Code §§ 200 et seq., Plaintiff and Class  
11 members are entitled to recover unpaid commissions, with interest, attorney’s fees, costs,  
12 penalties, all in an amount to be proven at trial.

13  
14 **SECOND CLAIM FOR RELIEF**  
15 **FAILURE TO PAY WAGES UPON SEPARATION**  
16 **California Labor Code §§ 201, 202, 203**  
17 **(On Behalf of Plaintiff and the Class)**

18 92. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 93. Plaintiff resigned from Oracle and concluded her employment in July  
20 2014.

21 94. At the time of Plaintiff’s separation, Defendant knowingly and willfully  
22 failed to pay Plaintiff all of the commission wages she had earned and which had been  
23 calculated or could be reasonably calculated, as alleged herein and above.

24 95. Defendant has operated under and continues to operate under a common  
25 policy and plan of failing and refusing to timely pay unpaid wages owed to Plaintiff and  
26 Class Members whose employment ended, as required by California Labor Code Sections  
27 201 and 202.

28 96. As a result of its failure to timely pay separated employees all  
compensation due, Defendant is liable for statutory waiting time penalties pursuant to

1 California Labor Code Section 203.

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**THIRD CLAIM FOR RELIEF**  
**UNFAIR COMPETITION**

4

**California Business & Professions Code §§ 17200 *et seq.***  
**(On Behalf of Plaintiff and the Class)**

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6 97. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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98. Defendant is a “person” as defined under California Business &  
Professions Code Section 17021.

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99. Business & Professions Code Section 17200 defines unfair competition as,  
*inter alia*, an unlawful business act or practice or an unfair business act or practice.

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100. By the conduct alleged herein, Defendant has engaged and continues to  
engage in a business practice which violates California law, including but not limited to  
California Labor Code Sections 200, 201, 202, 204, 221, 223, and 2751 and the  
applicable Industrial Welfare Commission Wage Orders.

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101. Defendant’s willful failure to pay all earned commission wages and failure  
to maintain accurate records of commission earnings and deductions constitute unlawful  
activity prohibited by California Business and Professions Code Section 17200.

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102. Defendant’s policies, practices and procedures alleged herein constitute  
unfair business practices under Section 17200. Oracle’s commission wage policies,  
practices and procedures deceive employees about how and what they will be paid and  
oppress employees who have inherently less bargaining power and inferior information.

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103. Furthermore, any failure to pay wages is, by definition, an unfair business  
practice under Section 17200.

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104. As a result of its unlawful and unfair acts, Defendant has reaped and  
continues to reap unfair benefits and illegal profits at the expense of Plaintiffs and the  
Class Members.

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105. Defendant should be made to disgorge these ill-gotten gains and restore to  
Plaintiff and the Class members the wrongfully withheld wages to which they are

1 entitled, as well as interest on these wages.

2 106. Plaintiff and Class members seek all injunctive and preventive relief  
3 authorized by Business and Professions Code Sections 17202 and 17203.

4 107. This action is designed to ensure the enforcement of an important right  
5 affecting the public interest and a large number of employees. The necessity and  
6 financial burden of private enforcement is great, and the risks to the named plaintiff for  
7 stepping forward are also significant. As such, Plaintiff would be entitled to attorneys'  
8 fees should they prevail, and such fees should not in the interest of justice be paid out of  
9 the recovery.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiff prays for the following relief:

12 A. Certification of the claims in this action as a class action under Federal  
13 Rule of Civil Procedure 23.

14 B. Designation of Plaintiff as Class Representative.

15 C. An award of damages in excess of 150 million dollars;

16 D. Equitable and injunctive relief to remedy Defendant's violations of state  
17 law, including but not necessarily limited to an order enjoining Defendant from  
18 continuing its unlawful practices;

19 E. Statutory penalties under state law;

20 F. Restitution under state law;

21 G. Pre-judgment and post-judgment interest, as provided by law;

22 H. Attorneys' fees and costs under applicable law, including expert fees and  
23 costs.

24 I. Such additional and further relief as this Court may deem just and proper.

25 **DEMAND FOR JURY TRIAL**

26 Plaintiff demands a jury trial for all claims triable by jury.

27 Dated: February 14, 2017

Respectfully submitted,

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By: /S/ Xinying Valerian

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**SANFORD HEISLER, LLP**

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