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XXX

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

XXX,]	CASE NO.
]	
Plaintiff,	]	COMPLAINT FOR DAMAGES
	]	<u>JURY TRIAL DEMANDED</u>
]	
v.	]	1. Involuntary Servitude
	]	2. Violation of the Fair Labor
	]	Standards Act
XXX; XXX, all individually and dba,	]	3. Violation of the California Labor
and DOES 1 through 10, inclusive,	]	Code
	]	4. False Imprisonment
Defendants.	]	5. Invasion of Privacy
	]	6. Fraud
	]	7. Assault
	]	8. Intentional Infliction of
	]	Emotional Distress
	]	9. Negligent Infliction of Emotional
	]	Distress
]	10. Negligent Supervision
]	11. Negligence Per Se

Plaintiff alleges as follows:

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[JURISDICTION AND VENUE]

1. Jurisdiction is conferred on this Court by Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b) and 28 U.S.C. §§ 1331, 1337, and 1350. Supplemental jurisdiction over Plaintiff's claims under California law is conferred by 28 U.S.C. § 1367. Venue is proper in the Central District of California because all the Defendants reside in this district, and because a substantial part of the events and omissions giving rise to the Plaintiff's claims occurred in this district.

[INTRODUCTION]

2. This is an action for damages arising out of a system involuntary servitude which deprived Plaintiff of the most basic rights guaranteed by the United States and California Constitutions and statutory law. Plaintiff is a domestic worker whom Defendants confined for over two years inside their residence in Northridge, California. The system of involuntary servitude to which Plaintiff was subjected violated the Thirteenth Amendment to the United States Constitution, Article 1, § 6 of the California Constitution, the compensation requirements of the Fair Labor Standards Act of 1938, 29 U.S.C. § 206, *et seq.* ("FLSA"), and various provisions of the California Labor Code ("Labor Code"). The system also gave rise to causes of action for false imprisonment, invasion of privacy, fraud, assault, intentional infliction of emotional distress, negligent infliction of emotional distress, negligent supervision, and negligence per se. Plaintiff seeks damages to remedy these egregious violations of her rights.

[PARTIES]

3. Plaintiff, XXX, is a resident of Los Angeles County, California. Plaintiff's signature on this complaint constitutes her written consent to

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become a party to this action filed pursuant to FLSA § 16(b), 29 U.S.C. § 216(b).

4. Plaintiff was employed as a domestic worker by the following Defendants: XXX, XXX (“Individual Defendants”), and Doe Defendants (“Does”) 1-10, inclusive.

5. Defendants XXX and XXX are residents of Los Angeles County, California.

6. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1-10, inclusive, and therefore sues these Defendants by such fictitious names and capacities. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and on that basis alleges that each fictitiously-named Defendant is responsible in some manner for the occurrences herein alleged, and that Plaintiff’s injuries were proximately caused by the conduct of such Defendant.

7. All of the Defendants, including the Doe Defendants, are alleged to be co-conspirators with each other, in that each agreed to participate and participated in the furtherance of the objective of a civil wrong as alleged in this Complaint.

8. Plaintiff is informed and believes and thereupon alleges that each Defendant entered into a conspiracy and agreement with the other Defendants and/or subsequently joined said conspiracy and ratified the prior acts and conduct of the Defendants who had previously entered into said conspiracy. Plaintiff is currently unaware of when each Defendant joined said conspiracy and, upon information and belief, alleges that all Defendants have knowingly, maliciously, and willfully entered into said conspiracy, which continues until this day. The

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purposes of this ongoing conspiracy include, but are not limited to, the wrongs alleged herein. All Defendants' acts and failures to act as alleged herein were perpetrated in furtherance of the ongoing conspiracy.

9. There are other co-conspirators not named as Defendants in this Complaint, who may be called as witnesses pursuant to California Evidence Code §§ 776, 1222, 1223, and 1230.

10. Plaintiff is informed and believes and thereupon alleges that at all times material herein, each Defendant was completely dominated and controlled by his or her co-Defendants, each was the agent, representative, and alter ego of the others, and all aided and abetted the wrongful acts of the others.

11. Whenever and wherever this complaint refers to any act by a Defendant or Defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

12. Plaintiff is informed and believes and on that basis alleges that at all material times, each of the Defendants has acted as an employer and/or a joint employer within the meaning of § 3(d) of the FLSA, 29 U.S.C. § 203(d), as well as 29 C.F.R. § 791.2 and California Labor Code § 2650(b).

13. Plaintiff is informed and believes and thereupon alleges that at all times material herein, each of the Defendants was the agent, employee and/or joint venturer of, or working in concert with, co-Defendants and was acting within the course and scope of such agency, employment, and/or joint venture or concerted activity. To the extent that said conduct and omissions were perpetrated by certain Defendants, Plaintiff is informed and believes and thereupon alleges that the

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remaining Defendant and/or Defendants confirmed and ratified said conduct and omissions.

14. Whenever and wherever reference is made in this complaint to any act by a Defendant and/or Defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

15. Whenever and wherever reference is made to individuals who are not named as Plaintiffs or Defendants in this complaint but are or were employees/agents of Defendants, or any of them, such references shall be deemed to mean that such individuals at all relevant times acted on behalf of Defendants within the scope of their employment.

[FACTUAL ALLEGATIONS]

16. Beginning in or around September 1998 and continuing through approximately August 2001, Plaintiff was falsely imprisoned at the home of the Defendants where she was forced to labor as a domestic servant, usually for long hours each day, seven days per week.

17. Defendants, and each of them, unlawfully and intentionally and/or negligently misrepresented to Plaintiff that she was being brought to the United States to care for their two children and that she would be treated humanely.

18. Defendants, and each of them, unlawfully and intentionally and/or negligently violated Plaintiff's personal liberty by confining her against her will and subjecting her to other forms of extreme mental, physical, and economic coercion and cruelty. Defendants restrained Plaintiff through express or implied threats of physical force, and express or implied threats of harm if she attempted to

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leave.

19. Defendants, and each of them, unlawfully and intentionally and/or negligently denied Plaintiff adequate medical care, including by refusing to allow her to seek prompt medical attention after a serious fall, during which she sustained physical trauma and bodily injury.

20. Defendants, and each of them, unlawfully and intentionally and/or negligently denied Plaintiff the freedom to practice her religion.

21. Defendants' actions and/or failures to act caused Plaintiff to contemplate suicide and subjected her to extreme emotional trauma.

22. Plaintiff was paid a total of approximately \$8,000 for the hours that she worked.

23. Plaintiff is informed and believes and on that basis alleges that each Defendant acted as Plaintiff's joint employer because each exercised meaningful control over the work Plaintiff performed. As joint employers, all Defendants are jointly and severally liable for Plaintiff's unpaid wages and personal injuries.

24. All Defendants benefited from and were unjustly enriched by the unlawful acts of the remaining Defendants.

[SUSPENSION OF STATUTES OF LIMITATION]

25. Any statute of limitations relating to the causes of action alleged in this complaint on behalf of the Plaintiff has been suspended for the period of Plaintiff's false imprisonment and for a reasonable time period following her release. Plaintiff was unaware of her rights, emotionally traumatized, and unable to seek appropriate remedies, including the filing of a lawsuit during such time

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period.

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[CLAIMS FOR RELIEF]

FIRST CLAIM FOR RELIEF

INVOLUNTARY SERVITUDE

26. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 25 above.

27. Plaintiff brings this claim for relief under the private cause of action implied under the Thirteenth Amendment to the United States Constitution, 18 U.S.C. § 1584, the California Constitution, Article I, § 6, and California Penal Code § 181.

28. As alleged herein, Defendants used threats and intimidation to hold Plaintiff in captivity and required her to work without lawfully required pay.

29. Through such actions, Defendants, acting individually and in concert, created and enforced a system of involuntary servitude prohibited by the Thirteenth Amendment to the United States Constitution, 18 U.S.C. § 1584, the California Constitution, Article I, § 6 and California Penal Code § 181.

30. As a direct and proximate result of these actions, Plaintiff has sustained damages, including extreme mental suffering, humiliation, emotional distress, physical injuries and economic losses, entitling her to damages in an amount to be proven at trial.

31. Defendants committed the acts alleged herein maliciously,

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fraudulently and oppressively with the wrongful intention of injuring Plaintiff from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. Plaintiff is thus entitled to recover punitive damages from Defendants in amounts to be proven at trial.

SECOND CLAIM FOR RELIEF

FAILURE TO PAY MINIMUM WAGES AND OVERTIME

UNDER THE FAIR LABOR STANDARDS ACT

32. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 31 above.

33. Section 6 of the FLSA, 29 U.S.C. § 206, establishes the right to be paid minimum wages. Domestic service employees who reside in the household where they are employed are entitled under the FLSA to be paid the minimum wage for all hours worked. 29 C.F.R. § 552.102. Section 16(b) of the FLSA, 29 U.S.C. § 216(b), entitles an employee to recover all unpaid wages, an equivalent amount as liquidated damages, and reasonable attorneys' fees and costs.

34. At all times relevant to this action, Defendants, and each of them, willfully failed and refused to pay Plaintiff the federal minimum wages required by the FLSA, to Plaintiff's damage in amounts to be proven at trial.

THIRD CLAIM FOR RELIEF

FAILURE TO PAY MINIMUM WAGES AND OVERTIME

UNDER THE CALIFORNIA LABOR CODE

35. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 34 above.

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36. Labor Code § 1197 establishes the right of employees to be paid minimum wages for their work, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by § 1197 may recover the unpaid balance together with attorney's fees and costs of suit, as well as liquidated damages in an amount equal to the wages unpaid and interest thereon.

37. Labor Code § 1198 and the Industrial Welfare Commission ("IWC") Wage Order No. 15-2000, § 3 provide that domestic service "live-in" employees in California shall not be employed more than nine hours in any workday for the first five workdays in any week unless they receive additional compensation beyond their regular wages in amounts specified by law. The employee is entitled to overtime pay at a rate of one and one half times her regular rate for all hours worked in excess of nine during the first five workdays. For the first nine hours worked on the sixth and seventh days of the workweek, the employee is entitled to be paid overtime pay of one and one half times her regular rate. For the remaining hours worked on the sixth and seventh days, the employee is entitled to be paid at double her regular rate. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid overtime compensation as required by § 1198 may recover the unpaid balance of the full amount of such wages, together with attorney's fees and costs of suit.

38. IWC Wage Order No. 15-2000 requires employers to permit their employees to take paid rest breaks and unpaid meal periods as specified therein, and specifies penalties, in addition to the unpaid wages, to be paid by employers who violate these provisions.

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39. At all relevant times, Defendants, and each of them, failed to pay to Plaintiff minimum wage and overtime compensation for hours worked in excess of the maximum hours of work permissible by laws as set forth in the Labor Code and in the IWC Wage Order. At all times, Defendants, and each of them, failed to provide Plaintiff with meal and rest breaks as specified in the applicable Wage Orders. In addition, Defendants did not pay Plaintiff all wages owed to her at the time she escaped from captivity and her employment was terminated, entitling her to recover waiting time penalties equal to thirty days' pays, pursuant to Labor Code § 203.

40. By virtue of Defendants' unlawful failure and refusal to pay to Plaintiff wages when due as required by law, other violations of law alleged herein, and other violations of law according to proof, Plaintiff has suffered damages in amounts to be proven at trial, and is entitled to all appropriate penalties provided by the Labor Code and the IWC Wage Orders.

FOURTH CLAIM FOR RELIEF

FALSE IMPRISONMENT

41. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 40 above as though fully set forth.

42. Defendants violated Plaintiff's personal liberty by acting in a manner which had the effect of confining her against her will and limiting her contact with anyone from the outside world. Defendants accomplished this restraint through express and implied threats of physical force, fraud, and by acting in a manner which had the effect of threatening harm to Plaintiff and her family if Plaintiff

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attempted to escape. Plaintiff's false imprisonment ended on or about August 2001, when she escaped.

43. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer bodily injury, extreme mental distress, humiliation and anguish, and other emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of injuring Plaintiff from an improper and evil motive, amounting to malice, and in conscious disregard of Plaintiff's rights. Plaintiff thus is entitled to recover punitive damages from Defendants in amounts to be proven at trial.

FIFTH CLAIM FOR RELIEF

INVASION OF PRIVACY

44. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 43 above.

45. All Defendants violated Plaintiff's personal privacy by acting in a manner which had the effect of putting her in such close proximity to the Defendants at all times, including all non-work hours, as to eliminate Plaintiff's personal privacy by effectively disallowing it. Defendants limited Plaintiff's communications without her consent, restricted Plaintiff's ability to leave the house, and intruded on her personal affairs. In doing so, Defendants intruded, physically and otherwise, upon the solitude and seclusion of Plaintiff and her private affairs and concerns.

46. As a proximate result of said conduct, Plaintiff suffered an intrusion

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into her solitude, seclusion, privacy, and personal affairs, entitling her to damages in amounts to be proven at trial.

SIXTH CLAIM FOR RELIEF

FRAUD

47. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 46 as though fully set forth.

48. Each of the Defendants and their agents intentionally and/or negligently made representations of material fact in telling Plaintiff that she would be employed to care for the Individual Defendants' two children if she came to the United States and that she would be treated humanely. These representations were in fact false. The truth was that the Individual Defendants wanted Plaintiff to come to the United States to serve as a domestic worker, pay her unlawful wages, and confine her against her will. When Defendants made the representations, Defendants knew they were false and/or had no reasonable ground for believing that the representations were true. Defendants made the representations with the intent to defraud and induce Plaintiff to come to the United States. At the time Plaintiff acted, Plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

49. Each of the Defendants has had and continues to have both the means of obtaining and actual possession of superior knowledge and special information with regard to the facts relevant to a determination of Plaintiff's rights as an employee. The superior knowledge and special information possessed by Defendants includes, but is not limited to, knowledge of legal requirements for

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employers and the amounts established by law as the minimum wage. As a result of Defendants' position to obtain superior knowledge and their actual possession of such knowledge, each Defendant has gained an unconscionable advantage over Plaintiff, who was ignorant of facts relevant to her employment status and rights and who was not in a position to become informed about such facts.

50. Despite their superior knowledge and special information, Defendants, and each of them, actively concealed from Plaintiff that she was entitled to minimum wage, overtime compensation, and/or any other legal protections and benefits available to employees under the law. Defendants actively concealed these known, material facts with the intent to induce Plaintiff to accept her unpaid and captive status, and for the purpose of preventing Plaintiff from asserting her employment rights in any legal forum available to her. Because of the Defendants' position of superior access to relevant knowledge and information about Plaintiff's employment status and rights, Plaintiff justifiably relied upon Defendants' false representations to her detriment.

51. As a direct and proximate result of Defendants' conduct as alleged in this Complaint, Plaintiff has lost wages and other benefits in amounts to be proven at trial. Further, the unlawful conduct of Defendants, and each of them, as alleged in this Complaint, was and continues to be malicious, fraudulent, despicable, and/or oppressive in that Defendants, and each of them, acted with full knowledge of the consequences to the Plaintiff as alleged in this Complaint, with the intent to violate the statutory and other employment rights of the Plaintiff, and/or with a willful, conscious, wanton, and reckless disregard for the Plaintiff's rights and for the deleterious consequences and cruel and unjust hardship resulting to Plaintiff.

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Consequently, the Plaintiff is entitled to exemplary and punitive damages in an amount to be proven at trial.

SEVENTH CLAIM FOR RELIEF

ASSAULT

52. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 51 above as though fully set forth.

53. Defendants caused Plaintiff to be constantly apprehensive that she would be subjected to intentional invasion of her right to be free from offensive and harmful physical contact. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer extreme mental distress, humiliation, anguish and emotional and physical injuries and economic losses, all to her damage in amounts to be proven at trial.

54. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff from an improper and evil motive amounting to malice and in conscious disregard of Plaintiff's rights. Plaintiff thus is entitled to recover punitive damages from Defendants in amounts to be proven at trial.

EIGHTH CLAIM FOR RELIEF

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

55. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 54 above as though fully set forth.

56. Defendants, and each of them, engaged in outrageous conduct towards

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Plaintiff, with the intention to cause or with reckless disregard for the probability of causing Plaintiff to suffer severe emotional distress. To the extent that said outrageous conduct was perpetrated by certain Defendants, the remaining Defendants adopted and ratified said conduct with a wanton and reckless disregard of the deleterious consequences to Plaintiff. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial.

57. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice and in conscious disregard of Plaintiff's rights, entitling Plaintiff to recover punitive damages in amounts to be proven at trial.

NINTH CLAIM FOR RELIEF

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

58. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 57 above as though fully set forth.

59. All Defendants, and each of them, knew or reasonably should have known that the conduct described herein would and did proximately result in physical and emotional distress to Plaintiff.

60. At all relevant times, all Defendants, and each of them, had the power, ability, authority, and duty to stop engaging in the conduct described herein and/or to intervene to prevent or prohibit said conduct.

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61. Despite said knowledge, power, and duty, Defendants negligently failed to act so as to stop engaging in the conduct described herein and/or to prevent or prohibit such conduct or otherwise protect Plaintiff. To the extent that said negligent conduct was perpetrated by certain Defendants, the remaining Defendants confirmed and ratified said conduct with the knowledge that Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless disregard for the deleterious consequences to Plaintiff.

62. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered and continues to suffer serious emotional distress, humiliation, anguish, emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial.

TENTH CLAIM FOR RELIEF

NEGLIGENT SUPERVISION

63. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 62 above as though fully set forth.

64. Plaintiff is informed and believes and on that basis alleges that, when engaging in the wrongful conduct alleged herein, Defendants were acting as agents of each other. Each Defendant knew or reasonably should have known that the other Defendants were engaging in the wrongful conduct alleged herein, and that this conduct would directly and proximately result in injury to Plaintiff. Each Defendant knew or reasonably should have known that the other Defendants were employing Plaintiff in violation of legal requirements as alleged herein and confining her against her will.

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65. Each Defendant had the authority to supervise, prohibit, control, and/or regulate the other Defendants so as to prevent these acts and omissions from occurring.

66. Each Defendant knew or reasonably should have known that unless they intervened to protect Plaintiff and properly to supervise, prohibit, control, and/or regulate the conduct of the other Defendants, those Defendants would perceive their acts and omissions as being ratified and condoned.

67. Each Defendant failed to exercise due care by failing to supervise, prohibit, control, or regulate the remaining Defendants and/or by failing to protect Plaintiff. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has suffered and continued to suffer injuries entitling her to damages in an amount to be determined at trial.

ELEVENTH CLAIM FOR RELIEF

NEGLIGENCE PER SE

68. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 67 above as though fully set forth.

69. The services provided by Plaintiff to Defendants have been performed under conditions which violated the FLSA, the California Labor Code, and the IWC Wage Orders as alleged in this Complaint. All Defendants have known or reasonably should have known of these egregious and ongoing violations, yet have done nothing to investigate, remedy, or report them to the appropriate authorities.

70. The minimum wage, overtime, and other provisions of the FLSA, the

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California Labor Code and applicable IWC Orders were enacted to protect workers from economic and personal injuries caused by poverty-level wages, unduly long hours, and other substandard working conditions. The acts and omissions of Defendants as alleged in this Complaint were and are a substantial factor contributing to the illegal and substandard working conditions under which Plaintiff has labored.

71. Plaintiff is among the class of persons that the FLSA, the California Labor Code and the IWC Orders were designed to protect and for whose protection the foregoing statutes and regulations were adopted. Plaintiff's injuries are of the type that the foregoing statutes and regulations are intended to prevent. Defendants' violations of the foregoing statutes and regulations constituted negligence per se and created a presumption of negligence.

72. As a direct and proximate result of Defendants' acts and omissions as alleged in this Complaint, Plaintiff has suffered and continues to suffer economic damages, in an amount, nature, and degree to be proven at trial. Defendants' conduct as described in this Complaint was malicious, fraudulent, and/or oppressive, and done with a conscious disregard for the rights of the Plaintiff and for the deleterious consequences of the Defendants' actions. Each Defendant authorized, condoned, and/or ratified the unlawful conduct of all the other Defendants named in this action and of their agents and employees. Consequently, the Plaintiff is entitled to an award of punitive damages.

[PRAYER FOR RELIEF]

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WHEREFORE, Plaintiff respectfully prays that this Court enters judgment against Defendants, and each of them, for:

1. Unpaid minimum wages, overtime premiums, penalties and interest, according to proof;
2. Liquidated damages pursuant to FLSA § 16(b), 29 U.S.C. § 216(b), and Labor Code § 1194.2(a);
3. General, compensatory, and special damages, according to proof;
4. Punitive damages according to proof;
5. Reasonable attorneys' fees and costs;
6. Such other and further relief as the Court deems just and proper.

DATED:

By _____
XXX

COMPLAINT FOR DAMAGES

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

DATED:

By _____
XXX

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