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11 *Attorneys for Plaintiff*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **IN AND FOR SAN FRANCISCO COUNTY**

15 BORIS JAMES DAVISON, individually,  
and on behalf of all others similarly  
16 situated,

17 Plaintiffs,  
v.

18 ACADEMY OF ART UNIVERSITY  
FOUNDATION, and DOES 1 through 10,  
19 inclusive,

20 Defendants.

21 JORGE TRELLES, on behalf of himself  
and all others similarly situated,

22 Plaintiff,

23 vs.

24 STEPHENS INSTITUTE, a California  
Corporation, dba ACADEMY OF ART  
25 UNIVERSITY, and DOES 1-50, inclusive,

26 Defendants.  
27  
28

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

MAY 09 2013

CLERK OF THE COURT

BY: MICHAEL RAYRAY  
Deputy Clerk

**CONSOLIDATED**

**CASE NO.: CGC-10-497727**

**CASE NO.: CGC-11-509952**

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR:**

- (1) **BREACH OF CONTRACT;**
- (2) **UNPAID MINIMUM WAGES;**
- (3) **WAITING TIME PENALTIES;**
- (4) **RECORD-KEEPING VIOLATIONS;**
- (5) **UNREIMBURSED EXPENSES; and**
- (6) **UNLAWFUL BUSINESS PRACTICES**
- (7) **LABOR CODE PRIVATE ATTORNEY GENERAL ACT PUBLIC ENFORCEMENT CLAIM (LABOR CODE § 2699 ET. SEQ.)**

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**DEMAND FOR JURY TRIAL**

5  
6 Plaintiff Jorge Trelles ("Plaintiff"), individually and on behalf of all others similarly  
7 situated, by his attorneys Rukin Hyland Doria & Tindall LLP and Gallenberg PC, file this Class  
8 Action Complaint and Jury Demand and allege as follows:  
9

10

**NATURE OF THE CASE**

11 1. This class action is brought on behalf of Plaintiff and the following Class:  
12 all persons who, at any time from April 6, 2007 until the present, worked in California for  
13 Stephens Institute, dba Academy of Art University (collectively, "AAU") as teachers or  
14 instructors and who were paid by the hour based on the number of in-class teaching hours they  
15 taught ("Class Members").

16 2. AAU is a for-profit school founded in 1929 in San Francisco, California.  
17 AAU is considered the largest private art and design school in the United States, with enrollment  
18 of approximately 17,000 students. AAU provides courses in 17 art and design subjects as well as  
19 English as a Second Language ("ESL") at various locations throughout San Francisco.

20 3. For at least the past four years, and continuing through the present, AAU  
21 has paid Class Members for their in-class teaching time but has failed to pay Class Members  
22 anything for the time Class Members are required to spend on a variety of work activities outside  
23 of class, including, but not limited to the following: preparing lesson plans for courses, arriving  
24 early to teach classes, staying after class to answer questions from students and clean up,  
25 communicating with students outside of class (by email, phone, or in person), updating lesson  
26 plans, preparing homework assignments and exams, reviewing and grading homework  
27

1 assignments and exams, attending to administrative tasks, and traveling between teaching sites.  
2 In addition, teachers and instructors are also required to purchase, among other things, course  
3 materials for the courses they teach.

4 4. At all times herein relevant, California Industrial Welfare Commission (the  
5 "IWC") Wage Order No. 4-2001, California Code of Regulations Title 8, § 11040, has provided  
6 for payment of wages for all hours worked. The IWC defines *hours worked* as the time during  
7 which an employee is subject to the control of an employer and includes all the time the  
8 employee is suffered or permitted to work, whether or not the employee is required to do so.

9 5. AAU has failed to pay Plaintiff and Class Members for all hours worked in  
10 violation of California state law and in breach of Class Members' employment agreements.  
11 AAU has also failed to maintain and provide accurate records of all hours worked by Plaintiff  
12 and Class Members, in violation of California state law.

13 6. AAU has also violated California common and statutory law as described  
14 with more particularity below.

#### 15 NATURE OF ACTION

16 7. This is a class action on behalf of Plaintiff and proposed Class Members,  
17 seeking unpaid compensation for all hours worked and interest thereon, waiting time penalties,  
18 penalties for record-keeping violations, penalties for violations of PAGA, reimbursement of  
19 expenses, and reasonable attorneys' fees and costs under common law, IWC Wage Order No. 4,  
20 California Labor Code §§ 201, 202, 203, 226, 2802, 1174, 1194, and 1197, and California CCP  
21 § 1021.5.

22 8. Under California Business and Professions Code ("Cal. Bus. & Prof.  
23 Code") §§ 17200 *et seq.*, and pursuant to the class action procedures provided for in this statute,  
24 Plaintiff, on behalf of himself and the proposed Class, also seek restitution of all benefits AAU  
25 has received from their failure to pay compensation due for all hours worked and its failure to  
26

1 maintain proper records of hours worked. Plaintiff also seeks to bring this case as a  
2 representative action for the recovery of penalties under California Labor Code Private Attorneys  
3 General Act of 2004 ("PAGA"), California Labor Code §2698, *et seq.* PAGA permits an  
4 "aggrieved employee" to bring a lawsuit on behalf of himself or herself and other current and  
5 former employees to address an employer's widespread violation of California Labor Code.

6 9. The "Class Period" is designated as the time from April 6, 2007 through the  
7 trial date, based upon the allegation that the violations of California's wage and hour laws and  
8 breaches of contract, as described more fully below, have been ongoing at least since April 6,  
9 2007.

10 10. During the Class Period, AAU has had a consistent policy of permitting,  
11 encouraging, and/or requiring Plaintiff and proposed Class Members to engage in the following  
12 activities (among others), without compensating them for the time they spent performing these  
13 activities as required by California state wage and hours laws and common law: (1) creating and  
14 updating lesson plans for courses and preparing to teach courses; (2) creating, reviewing, and  
15 grading homework assignments and exams; (3) arriving early to classes to set up and to answer  
16 questions from students; (4) staying after class to answer questions from students and clean up;  
17 (5) communicating with students outside of class; (6) attending to administrative tasks; and (7)  
18 traveling between teaching sites.

19 11. During the Class Period, AAU has also had a consistent policy of failing to  
20 pay in a prompt and timely manner all compensation owing to Plaintiff Jorge Trelles and other  
21 proposed Class Members whose employment with AAU has terminated.

#### 22 JURISDICTION AND VENUE

23 12. This Court has jurisdiction over all causes of action asserted herein  
24 pursuant to the California Constitution, Article VI, §10, which grants the Superior Court original  
25 jurisdiction in all cases except those given to other trial courts. Plaintiff seeks damages in this  
26  
27

1 case in an amount exceeding the jurisdictional minimum of this Court. The Court also has  
2 jurisdiction over certain causes of action pursuant to Business & Professions Code §§ 17203 and  
3 17204, which provide for exclusive jurisdiction for enforcement of this statute in any court of  
4 competent jurisdiction.

5 13. Venue in the Superior Court of San Francisco is proper under Business &  
6 Professions Code § 17203 and California Code of Civil Procedure § 395.5 because part of  
7 AAU's allegedly unlawful conduct occurred in this City and County, AAU conducts substantial  
8 business in this City and County, a substantial part of the transactions at issue took place in this  
9 City and County, and AAU's liability arose in part (if not entirely) in this County.

10 **PARTIES**

11 14. Plaintiff Jorge Trelles is an individual who resides in San Francisco,  
12 California and who was employed by AAU in San Francisco California as an instructor or  
13 teacher. Mr. Trelles taught three courses for AAU between 2005 and April 2007: advanced  
14 editing, motion picture language, and advanced special effects. Mr. Trelles has also taught  
15 courses at AAU from 2011 to the present.

16 15. Defendant Stephens Institute, dba Academy of Art University, is a  
17 California corporation headquartered in San Francisco, California. On information and belief,  
18 Plaintiff alleges that the practices and policies that are complained of by way of this Complaint  
19 were common at AAU throughout the proposed Class Period. AAU is, and at all relevant times  
20 was, an employer subject to California state wage and hour laws.

21 16. The defendants identified as Does 1 through 50, inclusive, are and were, at  
22 all relevant times mentioned in this Complaint, officers, directors, partners, and/or managing  
23 agents of some or each of the remaining defendants. Plaintiff is informed and believes and, on  
24 that basis, alleges that at all times herein mentioned, Defendant AAU and Does 1 through 50,  
25 inclusive, employed, and/or exercised control over the wages, hours, expense reimbursements,  
26  
27

1 and/or working conditions of the Plaintiff and Class Members in California including San  
2 Francisco County.

3 17. Plaintiff is unaware of the true names and capacities of those defendants  
4 sued herein as Does 1-50, inclusive and, therefore, sue these Defendants by such fictitious  
5 names. Plaintiff will seek leave of court to amend this Complaint when such names are  
6 ascertained. Plaintiff is informed and believes and, on that basis alleges that each of the  
7 fictitiously-named Defendants was responsible in some manner for, consented, ratified, and/or  
8 authorized the conduct herein alleged and that the Plaintiff and Class Members damages, as  
9 herein alleged, were proximately caused thereby.

10 18. Plaintiff is informed and believes and, on that basis, alleges that at all  
11 relevant times herein, each of the Defendants was the agent and/or employee of each of the  
12 remaining Defendants, and, in doing the acts herein alleged, was acting within the course and  
13 scope of such agency and/or employment.

14  
15 **CLASS ACTION ALLEGATIONS**

16 19. Plaintiff brings this action individually and as a class action on behalf of a  
17 Class defined as follows:

18  
19 **All persons who, at any time during the period April 6, 2007 to the**  
20 **present, worked for Stephens Institute dba Academy of Art**  
21 **University as an instructor or teacher in the State of California and**  
22 **was paid on an hourly basis for in-class teaching time.**

23 This action is brought, and may properly be maintained, as a class action pursuant to California  
24 Code of Civil Procedure § 382 because there is a well-defined community of interest in the  
25 litigation, and the proposed class is easily ascertainable. This action presents questions of  
26 common interest and satisfies the numerosity, commonality, typicality, adequacy, predominance,  
27 and superiority requirements of this provision.

28 **Numerosity and Ascertainability:**

1                   20. The Class is so numerous that the individual joinder of all of its members is  
2 impracticable. While the exact number and identities of Class Members are unknown to Plaintiff  
3 at this time and can only be ascertained through appropriate discovery, Plaintiff is informed and  
4 believe that the Class includes at least 75 persons.

5                   21. A class action is the only available method for the fair and efficient  
6 adjudication of this controversy. The members of the Class are so numerous that joinder of all  
7 members is impractical, if not impossible, insofar as the Plaintiff is informed and believe and, on  
8 that basis, allege that the total number of Class Members is at least 75 individuals. The identity  
9 of Class Members can be determined easily upon analysis of, *inter alia*, employee and payroll  
10 records maintained by AAU.

11 **Commonality:**

12                   22. Common questions of fact and law exist as to all members of the Class that  
13 predominate over any questions affecting only individual Class Members. These common legal  
14 and factual questions, which do not vary from Class Member to Class Member and which may  
15 be determined without reference to the individual circumstances of any Class Member, include  
16 but are not limited to the following:

17                   a. whether AAU, in violation of Cal. Code Regs., Title 8 § 11040,  
18 and California common law, failed to pay Plaintiff and Class Members for all of the work AAU  
19 required them to perform, thus breaching the implied contract with their employees to pay them  
20 for all hours worked;

21                   b. whether AAU failed to pay Plaintiff and Class Members minimum  
22 wage for all of the work AAU required them to perform, pursuant to IWC Wage Order No. 4,  
23 and Cal. Labor Code §§ 1194 and 1197;

24                   c. whether AAU, in violation of Cal. Labor Code §§ 201-203, failed  
25 to timely pay Plaintiff and Class Members all wages due upon termination or resignation;  
26

1 d. whether Plaintiff and other terminated Class Members are entitled  
2 to “waiting time” penalties pursuant to Cal. Labor Code § 203;

3 e. whether AAU, in violation of Cal. Labor Code §§ 226 and 1174,  
4 systematically failed to keep and provide accurate records of all of the hours worked by Plaintiff  
5 and Class Members and their applicable hourly rates;

6 f. whether AAU, in violation of Labor Code § 2802, failed to  
7 indemnify Plaintiff and Class Members for necessary expenditures incurred by them in direct  
8 consequence of the discharge of their duties;

9 g. whether Plaintiff and members of the Class are entitled to  
10 restitution under Cal. Bus. & Prof. Code §§ 17200 *et seq.*;

11 h. whether Plaintiff and members of the Class are entitled to recover  
12 penalties under PAGA; and

13 i. what amounts Plaintiff and Class Members are entitled to receive  
14 in interest on unpaid compensation due and owing to them.  
15

16 **Typicality:**

17 23. Plaintiff’s claims are typical of the claims of the Class. Plaintiff and all  
18 Class Members sustained injuries and damages arising out of and caused by AAU’s common  
19 course of conduct in violation of law as alleged herein.

20 **Adequacy of Representation:**

21 24. Plaintiff is an adequate representative of the Class in that Plaintiff has the  
22 same interests in the litigation of this case as the Class Members; Plaintiff is committed to  
23 vigorous prosecution of this case and has retained competent counsel experienced in class action  
24 and wage and hour litigation of this nature. Plaintiff is not subject to any individual defenses  
25 unique from those conceivably applicable to the Class as a whole and anticipates no management  
26 difficulties in this litigation.  
27



1 **Predominance:**

2 25. AAU has engaged in a common course of wage and hour violations toward  
3 Plaintiff and Class Members. The common issues arising from AAU's conduct that affect  
4 Plaintiff and Class Members predominate over any individual issues. Adjudication of these  
5 common issues in a single action has important and desirable advantages of judicial economy.

6 **Superiority of Class Action:**

7 26. A class action is superior to other available methods for the fair and  
8 efficient adjudication of this controversy because individual litigation of the claims of all Class  
9 Members is impracticable. Even if every Class Member could afford individual litigation, the  
10 court system could not. It would be unduly burdensome to the courts in which individual  
11 litigation of numerous cases would proceed. Individualized litigation would also present the  
12 potential for varying, inconsistent, or contradictory judgments and would magnify the delay and  
13 expense to all parties and to the court system resulting from multiple trials of the same complex  
14 factual issues. Moreover, individual actions by Class Members may establish inconsistent  
15 standards of conduct for AAU. By contrast, the conduct of this action as a class action, with  
16 respect to some or all of the issues presented herein, presents fewer management difficulties,  
17 conserves the resources of the parties and the court system, and protects the rights of each Class  
18 Member.  
19 Member.

20 27. AAU has acted or refused to act in respects generally applicable to the  
21 Class, thereby making appropriate relief with regard to the members of the Class as a whole, as  
22 requested herein.

23 **FIRST CAUSE OF ACTION**  
24 **(Breach of Contract for Failure to Pay Compensation for all Hours Worked)**  
25 **(brought by Plaintiff on behalf of all Class Members)**

26 28. Plaintiff incorporates in this cause of action every allegation contained in  
27 the previous paragraphs, as though fully set forth herein.



1 arriving early to class, staying after class to answer questions, answering questions from students  
2 outside of class, as well as the compulsory travel between various work sites are “hours worked”  
3 and must be compensated.

4 34. By the conduct alleged above, AAU breached an implied agreement with  
5 Plaintiff and Class Members to pay them their agreed-upon contract rate for all hours worked as  
6 understood and required under California state law. AAU’s failure to perform their part of the  
7 contract by failing to pay Class Members for all of their hours worked is unjustified and  
8 unexcused and constitutes a breach of contract.

9 35. As a direct and proximate result of AAU’s unlawful conduct, as set forth  
10 herein, Plaintiff and the Class Members have sustained damages, including the loss of earnings  
11 paid at the agreed-upon rate for hours worked on behalf of AAU, in an amount to be established  
12 at trial, plus prejudgment interest pursuant to statute.

13  
14 **SECOND CAUSE OF ACTION**  
15 **(Unpaid Minimum Wages under California Law)**  
16 **(brought by Plaintiff on behalf of all Class Members)**

17 36. Plaintiff incorporates in this cause of action every allegation contained in  
18 the previous paragraphs, as though fully set forth herein.

19 37. California Labor Code § 1197 states that payment of less than the minimum  
20 wage fixed by California’s Industrial Welfare Commission is unlawful.

21 38. AAU has refused to pay Plaintiff and members of the Class any  
22 compensation for the time they spent preparing their classes, creating and grading exams and  
23 homework assignments, arriving early to class and staying after class to answer students’  
24 questions, or other activities described in Paragraph 10, above. As such, Plaintiff and members  
25 of the Class receive less than the minimum wage for all hours worked for AAU. *See Armenta v.*  
26 *Osmose, Inc.* (Cal. App. 2d Dist. 2005) 135 Cal. App. 4th 314 (employer violated minimum  
27 wage statute even if average of paid and unpaid hours exceeded the minimum wage). Plaintiff

1 and the Class, therefore, are entitled under California law to be paid for all hours during which  
2 they were subject to the control of AAU, including all time they were suffered or permitted to  
3 work for AAU.

4 39. As a direct and proximate result of AAU's unlawful conduct, as set forth  
5 herein, Plaintiff and the Class have sustained damages, including compensatory damages  
6 pursuant to Labor Code § 1194(a), prejudgment interest, liquidated damages pursuant to Labor  
7 Code § 1194.2, and reasonable attorneys' fees and costs of suit pursuant to Labor Code  
8 § 1194(a), in an amount to be established at trial.

9  
10 **THIRD CAUSE OF ACTION**  
11 **(Waiting Time Penalties Under California Law)**  
12 **(brought by Plaintiff on behalf of himself and Class Members who are no longer employed**  
13 **by Defendants)**

14 40. Plaintiff incorporates in this cause of action every allegation contained in  
15 the previous paragraphs, as though fully set forth herein.

16 41. California Labor Code § 201 requires AAU to pay their discharged  
17 employees all wages due immediately upon discharge.

18 42. California Labor Code § 202 requires that if an employee quits his or her  
19 employment, "his or her wages shall become due and payable not later than 72 hours thereafter,  
20 unless the employee has given 72 hours previous notice of his or her intention to quit, in which  
21 case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any  
22 other provision of law, an employee who quits without providing a 72-hour notice shall be  
23 entitled to receive payment by mail if he or she so requests and designates a mailing address.

24 43. California Labor Code § 203 provides that if an employer willfully fails to  
25 timely pay any wages that are due to an employee who quits or is discharged, the employer must,  
26 as a penalty, continue to pay the employee's wages until the back wages are paid in full or an  
27 action is commenced. The penalty cannot exceed 30 days of wages.

1           44. Plaintiff and other Class Members who have been discharged or who have  
2 quit are entitled to all unpaid compensation, pursuant to California Labor Code § 203, but, to  
3 date, have not received such compensation, as alleged above. Plaintiff did not work for AAU  
4 from 2007 until 2011, but at no time received payments for all of the time he spent working for  
5 AAU outside of the time he spent in class teaching prior to and during 2007.

6           45. As a consequence of AAU's willful conduct in not paying compensation for  
7 all hours worked, Plaintiff and members of the Class who are no longer working for AAU are  
8 entitled to up to 30 days wages as a penalty under California Labor Code § 203, together with  
9 interest thereon.

10  
11                           **FOURTH CAUSE OF ACTION**  
12                           **(Record-Keeping Violations under California Law)**  
13                           **(brought by Plaintiff on behalf of all Class Members)**

14           46. Plaintiff incorporates in this cause of action every allegation contained in  
15 the previous paragraphs, as though fully set forth herein.

16           47. On information and belief, Plaintiff alleges that AAU maintains and has  
17 maintained no records of most—if not all—of the hours worked by Plaintiff and Class Members  
18 outside of their in-class teaching hours.

19           48. AAU knowingly and intentionally failed to maintain and provide timely,  
20 accurate, itemized wage statements by failing, *inter alia*, to identify all hours worked by Plaintiff  
21 and the Class in accordance with Labor Code § 226(a) and the IWC Wage Orders.

22           49. At all times relevant herein, AAU has willfully failed to maintain records of  
23 all hours worked and applicable hourly rates as required under Labor Code § 1174(d).

24           50. Plaintiff and members of the Class are entitled to and seek penalties under  
25 Labor Code §§ 226.3 and 1174.5 and attorneys' fees under Labor Code §§ 226(e).

26                           **FIFTH CAUSE OF ACTION**  
27                           **(Claim for Unreimbursed Expenses)**  
28                           **(brought by Plaintiff on behalf of all Class Members)**



1 conducts business activities while failing to comply with California wage and hour laws and the  
2 California common and statutory law as described herein.

3 59. Section 17200 of the California Business & Professions Code prohibits  
4 unfair competition by prohibiting unlawful, unfair, or fraudulent business practices or acts.

5 60. AAU's failure to adopt policies in accordance with and/or adhere to these  
6 laws, all of which are binding upon and burdensome to AAU's competitors, engenders an unfair  
7 competitive advantage for Defendants, thereby constituting an unfair business practice, as set  
8 forth in California Business & Professions Code §§ 17200, *et seq.*

9 61. AAU's conduct as herein alleged has damaged Plaintiff and members of the  
10 Class by wrongfully denying them earned wages and reimbursement for expenses and therefore  
11 was substantially injurious to Plaintiff and the Class.

12 62. Under the circumstances alleged, it would be inequitable and result in a  
13 miscarriage of justice for AAU to continue to retain the property of Plaintiff and the members of  
14 the Class, entitling Plaintiff and the Class to restitution of the unfair benefits obtained and  
15 disgorgement of AAU's ill-gotten gains.

16 63. As a result of AAU's unlawful and unfair business practices, Plaintiff and  
17 members of the Class are entitled to and seek restitution and disgorgement, and other appropriate  
18 relief available under Cal. Bus. & Prof. Code §§ 17200 *et seq.*

19  
20 **SEVENTH CAUSE OF ACTION**  
21 **(Labor Code Private Attorney General Act Claim, Labor Code §§2699 *et seq.*)**  
22 **(Brought By Plaintiff On Behalf Of All Class Members)**

23 64. Plaintiff incorporates in this cause of action every allegation contained in  
24 the previous paragraphs, as though fully set forth herein.

25 65. California Labor Code §§ 2698-2699.5, the Labor Code Private Attorneys  
26 General Act of 2004 ("PAGA"), establishes that any provision of the California Labor Code  
27 which provides for a civil penalty to be assessed and collected by the Labor and Workforce  
28

1 Development Agency ("LWDA"), or any of its departments, divisions, commissions, boards  
2 agencies or employees for violations of the California Labor Code, may be recovered through a  
3 collective action brought by an aggrieved employee on behalf of himself or herself, and other  
4 current or former employees. Under PAGA, an aggrieved employee (or former employee) need  
5 not satisfy class action requirements in order to bring a collective action on behalf of all other  
6 aggrieved current or former employees; instead, a PAGA collective action is essentially a public  
7 enforcement action on behalf of the general public. Such an action "functions as a substitute for  
8 an action brought by the government itself." (*Arias v. Superior Court of San Joaquin County*  
9 (2009) 46 Cal. 4th 969, 986.)

10  
11 66. Whenever the LWDA, or any of its departments, divisions, commissions,  
12 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is  
13 authorized to exercise the same discretion, subject to the same limitations and conditions, to  
14 assess a civil penalty.

15 67. Plaintiff is an aggrieved employee as defined in Labor Code § 2699(a).  
16 Plaintiff brings this case on behalf of himself and other current or former employees affected by  
17 the labor law violations alleged in this Complaint. One or more of the alleged violations was  
18 committed against them.

19 68. Plaintiff hereby seeks to collect civil penalties for the above-described  
20 Labor Code violations, including the penalties provided for payment of a wage less than the  
21 minimum, authorized under Cal. Labor Code § 1197.1, the penalties provided for failure to  
22 provide accurate itemized wage statements, authorized under Cal. Labor Code § 226.3, and the  
23 penalties provided for failure to indemnify employees for necessary business expenses,  
24 authorized under Cal. Labor Code § 2802.

25 69. Plaintiff has satisfied all the prerequisites set out in California Labor Code  
26 Section 2699.3 required for maintaining a civil suit to recover the afore-mentioned penalties.  
27



1 Plaintiff by and through counsel, provided written notice on February 12, 2013 by certified mail  
2 to the California Labor and Workforce Development Agency and to Defendant's counsel stating  
3 the provisions of the Labor Code alleged to have been violated, including the facts and theories  
4 to support the alleged violation. The time limit for the LWDA to respond has passed. As such,  
5 Plaintiff has exhausted his administrative remedies.

6           70. Defendant is liable for civil penalties in amounts to be established at trial,  
7 payable as provided in Labor Code Section 2699(i) to Plaintiff and to all other aggrieved  
8 employees and to the Labor and Workforce Development Agency as provided in said subsection,  
9 and for an award of attorneys' fees and costs incurred in securing these penalties, pursuant to  
10 Section 2699(g)(1).

11  
12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiff, individually and on behalf of all others similarly situated,  
14 seeks the following relief:

- 15           a. An Order declaring that this action is properly maintainable as a Class  
16 Action under California Code of Civil Procedure § 382, certifying the  
17 proposed Class herein and appointing Plaintiff and the undersigned  
18 counsel of record to represent the Class;
- 19           b. That AAU is found to have violated the provisions of the California Labor  
20 Code, as to the Plaintiff and the proposed Class by failing to pay Plaintiff  
21 and the Class for all hours worked;
- 22           c. That AAU is found to have breached its implied contracts with Plaintiff  
23 and the Class by failing to pay them at the agreed-upon contract rate for all  
24 of their hours worked;
- 25           d. That AAU is found to have violated California Labor Code §§ 1194 and  
26 1197 for failure to pay the minimum wage compensation due to Plaintiff  
27 and the Class Members;
- 28           e. That AAU is found to have violated the record-keeping provisions of  
California Labor Code §§ 1174(d) and 226 as to Plaintiff and the Class  
Members;
- f. That the court adjudge and decree that Defendant AAU violated California

1 Labor Code 2802(a), *inter alia*, by willfully failing to reimburse Plaintiff  
2 and Class Members for expenses incurred in direct consequence of the  
3 discharge of their duties during their employment with AAU.


- 4 g. That AAU is found to have violated California's Business and Professions  
5 Code § 17200 as to Plaintiff and the Class by failing to pay Plaintiff and  
6 members of the Class for all hours worked and failing to keep timely,  
7 accurate, itemized records of all hours worked;
- 8 h. An award to Plaintiff and Class Members of damages for the amount of  
9 unpaid compensation, including interest thereon, liquidated damages, un-  
10 reimbursed expenses, including interest thereon, and penalties subject to  
11 proof at trial;
- 12 i. That AAU be ordered and enjoined to pay restitution to Plaintiff and the  
13 Class due to AAU's unlawful activities, pursuant to California's Business  
14 and Professions Code §§ 17200-05;
- 15 j. That Plaintiff and the California Class Members collect civil penalties  
16 authorized by PAGA;
- 17 k. That Plaintiff and the Class be awarded reasonable attorneys' fees and  
18 costs pursuant to California Labor Code §§ 226(e), 1194(a), and 2802,  
19 and/or other applicable law; and
- 20 l. An award of such other and further relief as this Court may deem  
21 appropriate.

22 **JURY DEMAND**

23 **WHEREFORE**, Plaintiff demands a trial by jury on all issues so triable as a matter of  
24 right.

25 Dated: May 8, 2013

26 GALLENBERG PC  
27 RUKIN HYLAND DORIA & TINDALL LLP

28 By:   
Steven M. Tindall

Attorneys for the Proposed Class