

1 ROBERT A. SIEGEL (S.B. #64604)
rsiegel@omm.com
2 O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
3 Los Angeles, CA 90071-2899
Telephone: 213-430-6000
4 Facsimile: 213-430-6407

5 ADAM P. KOHSWEENEY (S.B. #229983)
akohsweeney@omm.com
6 SUSANNAH K. HOWARD (S.B. #291326)
showard@omm.com
7 KRISTIN M. MACDONNELL (S.B. #307124)
kmacdonnell@omm.com
8 O'MELVENY & MYERS LLP
Two Embarcadero Center
9 San Francisco, CA 94111-3823
Telephone: 415-984-8912
10 Facsimile: 415-984-8701

11 Attorneys for Defendant
12 American Airlines, Inc.

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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN JOSE DIVISION**
18

19 HASIM A. MOHAMMED, on behalf of
20 himself, all others similarly situated

21 Plaintiff,

22 v.

23 AMERICAN AIRLINES, INC., a
24 Corporation; and DOES 1 through 50,
25 inclusive,

26 Defendants.
27
28

Case No. CV _____

**NOTICE OF REMOVAL OF DEFENDANT
AMERICAN AIRLINES, INC.**

(28 U.S.C. §§ 1332(d), 1441(a))

(Santa Clara County Superior Court Case No.
19CV342788)

1 **TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR**
2 **THE NORTHERN DISTRICT OF CALIFORNIA AND TO PLAINTIFF HASIM A.**
3 **MOHAMMED AND PLAINTIFF’S ATTORNEYS OF RECORD:**

4 Pursuant to 28 U.S.C. §§ 1332(d), 1441(1) and 1446, Defendant American Airlines, Inc.
5 (“American”) hereby files this Notice of Removal, removing this action brought by Plaintiff
6 Hasim A. Mohammed (“Plaintiff”) from the Superior Court of the State of California, County of
7 Santa Clara, where the action is currently pending, to this Court pursuant to 28 U.S.C. § 1332(d),
8 as amended by the Class Action Fairness Act of 2005. American states the following grounds for
9 removal:

10 **PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL**

11 1. On February 21, 2019, American received a Summons and Complaint that had
12 been filed on February 19, 2019, a true and correct copy of which is attached hereto collectively
13 as **Exhibit A**. The action was brought as a putative class action in the Superior Court of the State
14 of California, County of Santa Clara, styled and captioned exactly as above, and assigned Case
15 No. 19CV342788. On March 22, 2019, American filed an Answer to the Complaint in the
16 Superior Court of the State of California, County of Santa Clara, a copy of which is attached
17 hereto as **Exhibit B**. No other process, pleadings or orders have been filed and served in this
18 action, and no other defendant has been named or served.

19 2. The Complaint asserts six causes of action, predicated on alleged violations of
20 California’s meal and rest break, recordkeeping, and timeliness of wage payment laws. Plaintiff
21 seeks to bring these claims on behalf of a putative “Hourly Employee Class” defined as “[a]ll
22 persons employed by Defendants and/or any staffing agencies and/or any other third parties in
23 hourly or non-exempt positions in California during the Relevant Time Period.” (Ex. A ¶ 11.)¹
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27 ¹ The “Relevant Time Period” is alleged to be from February 19, 2015, to the date of final
28 judgment. (Ex. A ¶ 11.) Plaintiff also seeks to certify various subclasses, including a Meal
Period Subclass, a Rest Period Subclass, a Wage Statement Penalties Subclass, a Waiting Time
Penalties Subclass. (*Id.*).

1 Additionally, Plaintiff seeks to certify a “UCL Class” defined as “[a]ll Hourly Employee Class
2 members employed by Defendants in California during the Relevant Time Period.” (*Id.*)

3 3. In the First Cause of Action, Plaintiff alleges that American failed to provide
4 Plaintiff and the putative class members off-duty meal periods in accordance with the California
5 Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. (Ex. A ¶¶
6 32-33, 38-39.) Plaintiff seeks premium compensation for missed meal periods pursuant to Labor
7 Code § 226.7, interests, costs, and attorneys’ fees. (*Id.* ¶¶ 44-45.)

8 4. In the Second Cause of Action, Plaintiff alleges that American failed to provide
9 Plaintiff and the putative class members off-duty rest periods in accordance with the California
10 Labor Code and applicable IWC Wage Order. (Ex. A ¶ 52.) Plaintiff seeks premium
11 compensation for missed rest period pursuant to Labor Code § 226.7, interest, costs, and
12 attorneys’ fees. (*Id.* ¶¶ 55-56.)

13 5. In the Third Cause of Action, Plaintiff alleges that American failed to pay Plaintiff
14 and the putative class members regular and overtime wages in accordance with California Labor
15 Code §§ 223, 510, 1196, 1197, and 1198. (Ex. A ¶ 71.) Plaintiff seeks recovery of all unpaid
16 straight time and overtime wages, interest, statutory costs, and statutory penalties. (*Id.* ¶¶ 78-79.)

17 6. In the Fourth Cause of Action, Plaintiff alleges that American failed to provide
18 accurate itemized wage statements to Plaintiff and the putative class members. (Ex. A ¶ 83.)
19 Plaintiff seeks penalties pursuant to Labor Code § 226, attorneys’ fees, and costs. (*Id.* ¶ 86.)

20 7. In the Fifth Cause of Action, Plaintiff alleges that American failed to timely pay all
21 final wages in accordance with California Labor Code §§ 201-203. (Ex. A ¶ 94.) Plaintiff seeks
22 penalties pursuant to Labor Code §§ 203 and 218.6, as well as attorneys’ fees and costs. (*Id.* ¶¶
23 96, 97.)

24 8. In the Sixth Cause of Action, Plaintiff alleges that American engaged in unfair
25 business practices by engaging in the alleged violations described in the first through fourth
26 causes of action. (Ex. A ¶ 108.) Plaintiff seeks declaratory relief and restitution of all money
27 acquired by American as a result of these allegedly unfair practices according to California
28 Business & Professions Code § 17200 *et seq.*, as well as attorneys’ fees. (*Id.* ¶ 114-115.)

1 9. This Notice of Removal has been filed within thirty (30) days of service of
2 American, and, as no other defendant has been named or served, the requirement of 28 U.S.C.
3 § 1446(b) requiring removal within thirty (30) days of service of the first defendant has been
4 satisfied. Therefore, this Notice of Removal has been timely filed.

5 **BASIS FOR REMOVAL: CLASS ACTION FAIRNESS ACT OF 2005 (“CAFA”)**

6 10. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d), which
7 provides that the United States District Courts have original jurisdiction over any class action: (i)
8 involving a plaintiff class of 100 or more members, (ii) where at least one member of the plaintiff
9 class is a citizen of a State different from any defendant, and (iii) in which the matter in
10 controversy exceeds (in the aggregate) the sum or value of \$5,000,000, exclusive of interest and
11 costs. See 28 U.S.C. § 1332(d)(2)(A) & (5)(B); see also *Dart Cherokee Basin Operating Co. v.*
12 *Owens*, 135 S. Ct. 547, 554 (2014) (explaining that “CAFA’s provisions should be read broadly,
13 with a strong preference that interstate class actions should be heard in federal court if properly
14 removed by any defendant.” (internal quotation marks omitted)).²

15 11. These three conditions are satisfied here. First, Plaintiff filed this action as a
16 “class action” within the meaning of 28 U.S.C. § 1332(d)(1)(b) because Plaintiff pleads that this
17 civil action should be considered a class action under California law. (Ex. A ¶ 11.) According to
18 American’s records, there are approximately 1,379 ramp agents currently working for American
19 in California. (Declaration of Lisa Magdaleno i/s/o Notice of Removal, dated March 25, 2019
20 (“Magdaleno Decl.”) ¶ 2.) The requirement that the class consist of at least 100 members is
21 therefore satisfied.

22 12. Second, Plaintiff is a citizen of the state of California. (Ex. A ¶ 5.) American is
23 incorporated in the State of Delaware, with its principal place of business in Fort Worth Texas,
24 and is therefore for removal purposes a citizen of the State of Delaware and of the State of Texas.

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28 ² American does not waive, and expressly reserves, all arguments that this matter is improper for
both class certification and as a non-class representative action.

1 *See Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010); Magdaleno Decl. ¶ 4. Thus, Plaintiff is a
2 citizen of a state different from American within the meaning of 28 U.S.C. § 1332(d)(2)(A).

3 13. Third, the claims asserted by the plaintiff class, aggregated as required by 28
4 U.S.C. § 1332(d)(2), exceed the necessary sum of \$5,000,000 “in controversy” within the
5 meaning of 28 U.S.C. § 1332(d)(2). Although American denies that Plaintiff and/or any putative
6 class member is entitled to any relief based on the allegations in the Complaint, given the size of
7 the proposed class, the breadth of the claims alleged and relief sought, and the specific allegations
8 in the Complaint, the amount put “in controversy” by this litigation is in excess of \$10,000,000,
9 far exceeding the threshold requirement of \$5,000,000:

- 10 a. Plaintiff’s First and Second Causes of Action allege that American
11 maintained a policy or practice of denying Plaintiff and the putative class
12 members off-duty meal and rest periods or premium compensation in lieu
13 thereof, Compl. ¶¶ 38-41; 52-53, and therefore he and the putative class
14 members are entitled to missed meal and rest period premiums pursuant to
15 Labor Code § 226.7 going back four years to February 19, 2015.
- 16 b. There are approximately 1,379 individuals currently working for
17 American as ramp agents in California. (Magdaleno Decl. ¶ 2.) According
18 to the applicable collective bargaining agreement, the current lowest hourly
19 rate for ramp agents is \$14.18 per hour. (*Id.* ¶ 3.) Labor Code § 226.7
20 provides that if an employer fails to provide a meal or rest period in
21 accordance with the law, “the employer shall pay the employee one
22 additional hour of pay at the employee’s regular rate of compensation for
23 each workday that the meal or rest or recovery period is not provided.”
24 Cal. Lab. Code § 226.7(c).
- 25 c. Reducing the number of putative class members by approximately 30%
26 (965) to account for attrition, and assuming each class member was paid at
27 \$14.18 per hour and missed one meal and one rest break each week for the
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4 years (or 208 weeks) at issue in this action, the amount in controversy for Plaintiff’s First and Second Causes of Action is approximately:

i. $(14.18 \times 208 \text{ weeks} \times 965) + (14.18 \times 208 \text{ weeks} \times 965) =$
\$5,692,419.20.

d. Although American contends that the claims are meritless, and that no monies are owed, relative to the claims in the Complaint, this calculation uses low assumptions regarding the putative class members’ regular hourly rate and the number of missed meal and rest periods per week.

14. This calculation only values the First and Second Causes of Action and only considers ramp agents—accordingly, the actual amount in controversy is significantly higher.

15. In addition, Plaintiff seeks to recover attorney’s fees, which further increases the alleged amount “in controversy” beyond \$5,000,000. (Ex. A ¶¶ 45, 56, 79, 86, 97, 115.); *see Lowdermilk v. U.S. Bank Nat’l Ass’n*, 479 F.3d 994 (9th Cir. 2007) (including attorneys’ fees in calculating amount in controversy), *overruled on other grounds by Standard Fire Ins. Co. v. Knowles*, 133 S. Ct. 1345 (2013); *see also Gibson v. Chrysler Corp.*, 261 F.3d 927 (9th Cir. 2001) (holding that attorneys’ fees were properly included in the amount in controversy requirement in a class action); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150 (9th Cir. 1998) (including attorneys’ fees in calculating the amount in controversy requirement for traditional diversity jurisdiction).

16. Thus, based on the reasonable assumptions set forth herein, the potential compensatory damages, together with the statutory penalties and attorney’s fees, exceed the \$5,000,000 aggregate amount in controversy requirement set forth under 28 U.S.C. § 1332(d)(2). *Dart Cherokee*, 135 S.Ct. at 554 (“a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.”).

VENUE

17. Plaintiff’s state court action was commenced in the Superior Court of the State of California for the County of Santa Clara and, pursuant to 28 U.S.C. §§ 84(a), 1441(a), & 1446(a) may be removed to this United States District Court for the Northern District of California, which embraces Santa Clara County within its jurisdiction.

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CONCLUSION

18. For the reasons discussed herein, pursuant to 28 U.S.C. §§ 1332(d), 1441(a) & 1446, this state court action may be removed to this Federal District Court.

WHEREFORE, Defendant requests that this action be brought to this Court, and that this Court exercise its jurisdiction in the premises.

Dated: March 25, 2019

O'MELVENY & MYERS LLP
ROBERT A. SIEGEL
ADAM P. KOHSWEENEY
SUSANNAH K. HOWARD

By: /s/ Adam P. KohSweeney
Adam P. KohSweeney
Attorneys for Defendant American Airlines,
Inc.

EXHIBIT A

2-27-2019

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
E-FILED
2/19/2019 5:31 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
19CV342788
Reviewed By: R. Walker
Envelope: 2529544

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

AMERICAN AIRLINES, INC., a Delaware corporation; and DOES I through 50, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

HASIM A. MOHAMMED, on behalf of himself, all others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Downtown Superior Court
191 North First Street
San Jose, California 95113

CASE NUMBER
(NÚMERO DE CASO)
19CV342788

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Shaun Setareh, Esq., 315 South Beverly Drive, Suite 315, Beverly Hills, California 90212, (310) 888-7771

DATE: 2/19/2019 5:31 PM Clerk of Court Clerk, by R. Walker Deputy
(Fecha) (Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010))



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify): **AMERICAN AIRLINES, INC.**
 - under CCP 416.10 (corporation) CCP 416.60 (minor)
 - CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 - CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 - other (specify):
- 4. by personal delivery on (date):

E-FILED
2/19/2019 5:31 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
19CV342788
Reviewed By: R. Walker

1 Shaun Setareh (SBN 204514)
shaun@setarehlaw.com
2 William M. Pao (SBN 219846)
william@setarehlaw.com
3 Lilit Ter-Astvatsatryan (SBN 320389)
lilit@setarehlaw.com
4 SETAREH LAW GROUP
315 South Beverly Drive, Suite 315
5 Beverly Hills, California 90212
Telephone (310) 888-7771
6 Facsimile (310) 888-0109

7 Attorneys for Plaintiff
HASIM A. MOHAMMED

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SANTA CLARA
11 UNLIMITED JURISDICTION

13 HASIM A. MOHAMMED, on behalf of
himself, all others similarly situated,

14 *Plaintiff,*

15 vs.

16 AMERICAN AIRLINES, INC., a Delaware
17 corporation; and DOES 1 through 50,
18 inclusive,

19 *Defendants.*

Case No. **19CV342788**

CLASS ACTION

COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
5. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
6. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);

JURY TRIAL DEMANDED

1 COMES NOW, Plaintiff HASIM A. MOHAMMED ("Plaintiff"), on behalf of himself, all
2 others similarly situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class action against Defendant AMERICAN AIRLINES, INC., a
5 Delaware corporation, and DOES 1 through 50, inclusive (collectively referred to as "Defendants")
6 for alleged violations of the Labor Code and Business and Professions Code. As set forth below,
7 Plaintiff alleges that Defendants have:

- 8 (1) failed to provide him and all other similarly situated individuals with meal
9 periods;
- 10 (2) failed to provide them with rest periods;
- 11 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 12 (4) failed to provide them with accurate written wage statements; and
- 13 (5) failed to pay them all of their final wages following separation of
14 employment.

15 Based on these alleged Labor Code violations, Plaintiff now brings this class action to
16 recover unpaid wages, restitution and related relief on behalf of himself, all others similarly
17 situated.

18 **JURISDICTION AND VENUE**

19 2. This Court has subject matter jurisdiction to hear this case because the monetary
20 damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal
21 jurisdiction of the Superior Court of the State of California.

22 3. Venue is proper in the County of Santa Clara pursuant to Code of Civil Procedure
23 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
24 that are the subject matter of this Complaint occurred therein and/or each defendant is found,
25 maintains offices, transacts business and/or has an agent therein.

26 4. Venue is proper in Santa Clara County because Defendants' principal place of
27 business is in Texas, is incorporated under the laws of Delaware, does business in Santa Clara
28 County, and has not registered a California place of business with the California Secretary of State.

1 As such, venue is proper in any county in California.

2 **PARTIES**

3 5. Plaintiff HASIM A. MOHAMMED is, and at all relevant times mentioned herein, an
4 individual residing in the State of California.

5 6. Plaintiff is informed and believes, and thereupon alleges that Defendant
6 AMERICAN AIRLINES, INC. is, and at all relevant times mentioned herein, a Delaware
7 corporation doing business in the State of California.

8 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
9 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
10 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
11 when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the
12 fictitiously named defendants are responsible in some manner for the occurrences, acts and
13 omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these
14 defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and
15 capacities of the DOE defendants when ascertained.

16 8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
17 mentioned herein, some or all of the defendants were the representatives, agents, employees,
18 partners, directors, associates, joint venturers, principals or co-participants of some or all of the
19 other defendants, and in doing the things alleged herein, were acting within the course and scope of
20 such relationship and with the full knowledge, consent and ratification by such other defendants.

21 9. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
22 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert
23 and conspired with one another, and aided and abetted one another to accomplish the occurrences,
24 acts and omissions alleged herein.

25 **CLASS ALLEGATIONS**

26 10. This action has been brought and may be maintained as a class action pursuant to
27 Code of Civil Procedure section 382 because there is a well-defined community of interest among
28 the persons who comprise the readily ascertainable classes defined below and because Plaintiff is

1 unaware of any difficulties likely to be encountered in managing this case as a class action.

2 11. **Relevant Time Period:** The relevant time period is defined as the time period
3 beginning four years prior to the filing of this action until judgment is entered.

4 **Hourly Employee Class:** All persons employed by Defendants and/or any staffing agencies
5 and/or any other third parties in hourly or non-exempt positions in California during the
6 **Relevant Time Period.**

7 **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a
8 shift in excess of five hours during the **Relevant Time Period.**

9 **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift
10 of at least three and one-half (3.5) hours during the **Relevant Time Period.**

11 **Wage Statement Penalties Sub-Class:** All **Hourly Employee Class** members
12 employed by Defendants in California during the period beginning one year before
13 the filing of this action and ending when final judgment is entered.

14 **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
15 separated from their employment with Defendants during the period beginning three
16 years before the filing of this action and ending when final judgment is entered.

17 **UCL Class:** All **Hourly Employee Class** members employed by Defendants in California
18 during the **Relevant Time Period.**

19 12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
20 right to amend or modify the class definitions with greater specificity, by further division into sub-
21 classes and/or by limitation to particular issues.

22 13. **Numerosity:** The class members are so numerous that the individual joinder of each
23 individual class member is impractical. While Plaintiff does not currently know the exact number
24 of class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
25 exceeds the minimum required for numerosity under California law.

26 14. **Commonality and Predominance:** Common questions of law and fact exist as to
27 all class members and predominate over any questions which affect only individual class members.

28 These common questions include, but are not limited to:

A. Whether Defendants maintained a policy or practice of failing to provide
employees with their meal periods;

B. Whether Defendants maintained a policy or practice of failing to provide
employees with their rest periods;

- 1 C. Whether Defendants failed to pay premium wages to class members when
- 2 they have not been provided with required meal and/or rest periods;
- 3 D. Whether Defendants failed to provide class members with accurate written
- 4 wage statements as a result of providing them with written wage statements
- 5 with inaccurate entries for, among other things, amounts of gross and net
- 6 wages, and total hours worked;
- 7 E. Whether Defendants applied policies or practices that result in late and/or
- 8 incomplete final wage payments;
- 9 F. Whether Defendants are liable to class members for waiting time penalties
- 10 under Labor Code section 203;
- 11 G. Whether class members are entitled to restitution of money or property that
- 12 Defendants may have acquired from them through unfair competition;

13 15. **Typicality:** Plaintiff's claims are typical of the other class members' claims.

14 Plaintiff is informed and believes and thereupon alleges that Defendants have a policy or practice of
15 failing to comply with the Labor Code and Business and Professions Code as alleged in this
16 Complaint.

17 16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in
18 that he has no interests that are adverse to, or otherwise conflict with, the interests of absent class
19 members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly
20 and adequately represent and protect the interests of the other class members.

21 17. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
22 they have no known conflicts of interest with Plaintiff or absent class members, are experienced in
23 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on
24 behalf of Plaintiff and absent class members.

25 18. **Superiority:** A class action is vastly superior to other available means for fair and
26 efficient adjudication of the class members' claims and would be beneficial to the parties and the
27 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
28 and efficiently prosecute their common claims in a single forum without the unnecessary

1 duplication of effort and expense that numerous individual actions would entail. In addition, the
2 monetary amounts due to many individual class members are likely to be relatively small and would
3 thus make it difficult, if not impossible, for individual class members to both seek and obtain relief.
4 Moreover, a class action will serve an important public interest by permitting class members to
5 effectively pursue the recovery of monies owed to them. Further, a class action will prevent the
6 potential for inconsistent or contradictory judgments inherent in individual litigation.

7 GENERAL ALLEGATIONS

8 19. Plaintiff worked for Defendants as a non-exempt, hourly employee from
9 approximately January 17, 2000 through February 28, 2018.

10 Meal Periods and Auto-Deduct

11 20. On many occasions, Plaintiff and the putative class members were not provided
12 with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1)
13 Defendants' policy of not scheduling each meal period as part of each work shift; (2) chronically
14 understaffing each work shift with not enough workers; (3) imposing so much work on each
15 employee such that it made it unlikely that an employee would be able to take their breaks if they
16 wanted to finish their work on time; and (4) no formal written meal and rest period policy that
17 encouraged employees to take their meal and rest periods.

18 21. Plaintiff and the putative class members were provided meal periods to the extent
19 that there were otherwise not occupied with their job duties. In other words, when a plane arrived,
20 Plaintiff and the putative class were required to interrupt their meal periods and to immediately
21 perform their assigned job duties.

22 22. Moreover, Plaintiff and the putative class were not instructed to nor required to clock
23 out for their meal periods as Defendants had a policy of automatically deducting one hour from
24 their hours worked. This is further evidenced by the fact that Plaintiff and the putative class were
25 scheduled to work nine hours and in order to avoid having to pay overtime, an hour was
26 automatically deducted by Defendants for their purported meal periods, even though Plaintiff and
27 the putative class seldomly, if even ever, were provided with a one-hour uninterrupted, duty-free
28 meal period.

1 23. As a result of Defendants' policy, Plaintiff and the putative class were regularly not
2 provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours
3 worked due to complying with Defendants' productivity requirements that required Plaintiff and
4 the putative class to work through their meal periods in order to complete their assignments on
5 time.

6 **Missed Rest Periods**

7 24. Plaintiff and the putative class members were not provided with rest periods of at
8 least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
9 Defendants' policy of not scheduling each rest period as part of each work shift; (2) chronically
10 understaffing each work shift with not enough workers; (3) imposing so much work on each
11 employee such that it made it unlikely that an employee would be able to take their breaks if they
12 wanted to finish their work on time; and (4) no formal written meal and rest period policy that
13 encouraged employees to take their meal and rest periods.

14 25. Plaintiff and the putative class members were provided rest periods to the extent
15 that there were otherwise not occupied with their job duties. In other words, when a plane arrived,
16 Plaintiff and the putative class were required to interrupt their meal periods and to immediately
17 perform their assigned job duties.

18 26. As a result of Defendants' policy, Plaintiff and the putative class were regularly not
19 provided with uninterrupted rest periods of at least ten (10) minutes for each four (4) hours worked
20 due to complying with Defendants' productivity requirements that required Plaintiff and the
21 putative class to work through their rest periods in order to complete their assignments on time.

22 **Wage Statements**

23 27. Plaintiff and the putative class were not provided with accurate wage statements as
24 mandated by law pursuant to Labor Code section 226.

25 28. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
26 earned" were not accurately reflected in that:

- 27 a. all hours worked, including overtime, were not included and so gross wages were
28 not accurate;

1 35. Labor Code section 1198 makes it unlawful to employ a person under conditions that
2 violate the applicable Wage Order.

3 36. Section 11 of the applicable Wage Order states:

4 "No employer shall employ any person for a work period of more than five (5) hours
5 without a meal period of not less than 30 minutes, except that when a work period of
6 not more than six (6) hours will complete the day's work the meal period may be
7 waived by mutual consent of the employer and employee. Unless the employee is
8 relieved of all duty during a 30 minute meal period, the meal period shall be
9 considered an 'on duty' meal period and counted as time worked. An 'on duty' meal
period shall be permitted only when the nature of the work prevents an employee
from being relieved of all duty and when by written agreement between the parties
an on-the-job paid meal period is agreed to. The written agreement shall state that
the employee may, in writing, revoke the agreement at any time."

10 37. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
11 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
12 members were not subject to valid on-duty meal period agreements with Defendants.

13 38. Plaintiff alleges that, at all relevant times during the applicable limitations period,
14 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
15 **Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for
16 each five (5) hour work period, as required by Labor Code section 512 and the applicable Wage
17 Order.

18 39. Plaintiff alleges that, at all relevant times during the applicable limitations period,
19 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
20 **Class** members when they worked five (5) hours without clocking out for any meal period.

21 40. Plaintiff alleges that, at all relevant times during the applicable limitations period,
22 Defendants maintained a policy or practice of automatically deducting one hour for a meal period
23 from the paychecks of **Meal Period Sub-Class** members on each day they worked, regardless of
24 whether or not they were able to take an uninterrupted, duty-free meal period.

25 41. Plaintiff alleges that, at all relevant times during the applicable limitations period,
26 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
27 **Period Sub-Class** with a second meal period when they worked shifts of ten or more hours and
28 failed to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

1 42. Moreover, Defendants written policies do not provide that employees must take their
2 first meal period before the end of the fifth hour of work, that they are entitled to a second meal
3 period if they work a shift of over ten hours, or that the second meal period must commence before
4 the end of the tenth hour of work, unless waived.

5 43. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
6 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
7 regular rates of pay when required meal periods were not provided.

8 44. Pursuant to Labor Code section 204.218.6 and 226.7, Plaintiff, on behalf of himself
9 and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon,
10 and costs of suit.

11 45. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
12 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
13 the **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PROVIDE REST PERIODS**

16 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

17 **(Plaintiff and Rest Period Sub-Class)**

18 46. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
19 herein.

20 47. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been
21 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor
22 Code and the applicable Wage Order.

23 48. Section 12 of the applicable Wage Order imposes an affirmative obligation on
24 employers to permit and authorize employees to take required rest periods at a rate of no less than
25 ten minutes of net rest time for each four hour work period, or major fraction thereof, that must be
26 in the middle of each work period insofar as practicable.

27 49. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit
28 employers from requiring employees to work during required rest periods and require employers to

1 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on
2 each workday that the employee is not provided with the required rest period(s).

3 50. Compensation for missed rest periods constitutes wages within the meaning of Labor
4 Code section 200.

5 51. Labor Code section 1198 makes it unlawful to employ a person under conditions that
6 violate the Wage Order.

7 52. Plaintiff alleges that, at all relevant times during the applicable limitations period,
8 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
9 with net rest period of at least ten minutes for each four hour work period, or major fraction thereof,
10 as required by the applicable Wage Order.

11 53. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-**
12 **Class** members additional premium wages when required rest periods were not provided.

13 54. Specifically, Defendants written policies do not provide that employees may take a
14 rest period for each four hours worked, or major fraction thereof, and that rest periods should be
15 taken in the middle of each work period insofar as practicable.

16 55. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself
17 and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and
18 costs of suit.

19 56. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
20 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
21 **Rest Period Sub-Class** members, seek to recover reasonable attorneys' fees.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

24 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

25 **(Plaintiff and Hourly Employee Class)**

26 57. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
27 herein.

28 58. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have

1 been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
2 applicable Wage Order.

3 59. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
4 which an employee is subject to the control of the employer, and includes all the time the employee
5 is suffered or permitted to work, whether or not required to do so."

6 60. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
7 employees at least the minimum wage set forth therein for all hours worked, which consist of all
8 hours that an employer has actual or constructive knowledge that employees are working.

9 61. Labor Code section 1194 invalidates any agreement between an employer and an
10 employee to work for less than the minimum or overtime wage required under the applicable Wage
11 Order.

12 62. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
13 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in
14 addition to the underlying unpaid minimum wages and interest thereon.

15 63. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
16 than the minimum wage required under the applicable Wage Order for all hours worked during a
17 payroll period.

18 64. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
19 person acting either individually or as an officer, agent or employee of another person, to pay an
20 employee, or cause an employee to be paid, less than the applicable minimum wage.

21 65. Labor Code section 1198 makes it unlawful for employers to employ employees
22 under conditions that violate the applicable Wage Order.

23 66. Labor Code section 204 requires employers to pay non-exempt employees their
24 earned wages for the normal work period at least twice during each calendar month on days the
25 employer designates in advance and to pay non-exempt employees their earned wages for labor
26 performed in excess of the normal work period by no later than the next regular payday.

27 67. Labor Code section 223 makes it unlawful for employers to pay their employees
28 lower wages than required by contract or statute while purporting to pay them legal wages.

1 68. Labor Code section 510 and Section 3 of the applicable Wage Order require
2 employees to pay non-exempt employees overtime wages of no less than one and one-half times
3 their respective regular rates of pay for all hours worked in excess of eight hours in one workday, all
4 hours worked in excess of forty hours in one workweek, and/or for the first eight hours worked on
5 the seventh consecutive day of one workweek.

6 69. Labor Code section 510 and Section 3 of the applicable Wage Order also require
7 employers to pay non-exempt employees overtime wages of no less than two times their respective
8 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
9 worked in excess of eight hours on a seventh consecutive workday during the workweek.

10 70. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
11 centrally devised policies and practices to him and **Hourly Employee Class** members with respect
12 to working conditions and compensation arrangements.

13 71. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
14 **Employee Class** members for all time worked, including but not limited to, overtime hours at
15 statutory and/or agreed rates.

16 72. At all relevant times during the applicable limitations period, Defendants maintained
17 a policy or practice of automatically deducting one hour from Plaintiff's timecard on every workday
18 for a meal period, regardless of whether or not Plaintiff was provided with a meal period.

19 73. Plaintiff is informed and believes that, at all relevant times during the applicable
20 limitations period, Defendants maintained a policy or practice of automatically deducting one hour
21 from **Hourly Employee Class** members' timecard on every workday for a meal period, regardless
22 of whether or not **Hourly Employee Class** members were provided with a meal period.

23 74. As a result of Defendants' policy or practice of automatically deducting one hour
24 from employees' timecards for every workday for a meal period, Plaintiff and **Hourly Employee**
25 **Class** members were required to perform off-the-clock work that Defendants either knew or should
26 have known they were working.

27 75. At all relevant times, Defendants failed to pay hourly wages to Plaintiff for all time
28 worked, including but not limited to, overtime wages at statutory and/or agreed rates by suffering or

1 permitting him to work during unpaid meal periods and/or failing to properly pay Plaintiff for all
2 overtime hours worked.

3 76. Plaintiff is informed and believes that, at all relevant times during the applicable
4 limitations period, Defendants maintained a policy or practice of not paying hourly wages to
5 **Hourly Employee Class** members for all time worked, including but not limited to, overtime hours
6 at statutory and/or agreed rates by suffering or permitting them to work during unpaid meal periods.

7 77. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
8 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
9 full amount of wages earned during each pay period during the applicable limitations period,
10 including overtime wages.

11 78. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
12 behalf of himself and **Hourly Employee Class** members, seek to recover unpaid straight time and
13 overtime wages, interest thereon and costs of suit.

14 79. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
15 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
16 **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

19 (Lab. Code § 226)

20 (Plaintiff and Wage Statement Penalties Sub-Class)

21 80. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
22 herein.

23 81. Labor Code section 226(a) states:

24 "An employer, semimonthly or at the time of each payment of wages, shall furnish to
25 his or him employee, either as a detachable part of the check, draft, or voucher
26 paying the employee's wages, or separately if wages are paid by personal check or
27 cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
28 total hours worked by the employee, except as provided in subdivision (j), (3) the
number of piece-rate units earned and any applicable piece rate if the employee is
paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
written orders of the employee may be aggregated and shown as one item, (5) net
wages earned, (6) the inclusive dates of the period for which the employee is paid,

1 (7) the name of the employee and only the last four digits of his or her social
2 security number or an employee identification number other than a social security
3 number, (8) the name and address of the legal entity that is the employer and, if the
4 employer is a farm labor contractor, as defined in subdivision (b) of Section 1682,
5 the name and address of the legal entity that secured the services of the employer,
6 and (9) all applicable hourly rates in effect during the pay period and the
7 corresponding number of hours worked at each hourly rate by the employee and,
8 beginning July 1, 2013, if the employer is a temporary services employer as defined
9 in Section 201.3, the rate of pay and the total hours worked for each temporary
10 services assignment. The deductions made from payment of wages shall be recorded
11 in ink or other indelible form, properly dated, showing the month, day, and year, and
12 a copy of the statement and the record of the deductions shall be kept on file by the
13 employer for at least three years at the place of employment or at a central location
14 within the State of California. For purposes of this subdivision, 'copy' includes a
15 duplicate of the itemized statement provided to an employee or a computer-generated
16 record that accurately shows all of the information required by this subdivision."

17 82. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize
18 the "detachable part of the check" provision and the "accurate itemized statement in writing"
19 provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each
20 employee retains the right to elect to receive a written paper stub or record and that those who are
21 provided with electronic wage statements retain the ability to easily access the information and
22 convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion
23 Letter July 6, 2006).

24 83. Plaintiff is informed and believes that, at all relevant times during the applicable
25 limitations period, Defendants have failed to provide **Wage Statement Penalties Sub-Class**
26 members with written wage statements as described above.

27 84. Plaintiff is informed and believes that Defendants' failure to provide him and **Wage**
28 **Statement Penalties Sub-Class** members with accurate written wage statements were intentional in
that Defendants have the ability to provide them with accurate wage statements but have
intentionally provided them with written wage statements that Defendants have known do not
comply with Labor Code section 226(a).

85. Plaintiff and **Wage Statement Penalties Sub-Class** members have suffered injuries,
in that Defendants have violated their legal rights to receive accurate wage statements and have
misled them about their actual rates of pay and wages earned. In addition, inaccurate information
on their wage statements have prevented immediate challenges to Defendants' unlawful pay

1 practices, has required discovery and mathematical computations to determine the amount of wages
2 owed, has caused difficulty and expense in attempting to reconstruct time and pay records, and/or
3 has led to the submission of inaccurate information about wages and deductions to federal and state
4 government agencies.

5 86. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
6 **Statement Penalties Sub-Class** members, seek the greater of actual damages or \$50.00 for the
7 initial pay period in which a violation of Labor Code section 226(a) occurred, and \$100.00 for each
8 subsequent pay period in which a violation of Labor Code section 226(a) occurred, not to exceed an
9 aggregate penalty of \$4000.00 per class member, as well as awards of reasonable attorneys' fees
10 and costs.

11 **FIFTH CAUSE OF ACTION**

12 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

13 **(Lab. Code §§ 201-203)**

14 **(Plaintiff and Waiting Time Penalties Sub-Class)**

15 87. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
16 herein.

17 88. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members
18 have been entitled, upon the end of their employment with Defendants, to timely payment of all
19 wages earned and unpaid before termination or resignation.

20 89. At all relevant times, pursuant to Labor Code section 201, employees who have been
21 discharged have been entitled to payment of all final wages immediately upon termination.

22 90. At all relevant times, pursuant to Labor Code section 202, employees who have
23 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
24 payment of all final wages at the time of resignation.

25 91. At all relevant times, pursuant to Labor Code section 202, employees who have
26 resigned after giving less than seventy-two (72) hours notice of resignation have been entitled to
27 payment of all final wages within seventy-two (72) hours of giving notice of resignation.

28 92. During the applicable limitations period, Defendants failed to pay Plaintiff all of him

1 final wages in accordance with the Labor Code by failing to timely pay him all of his final wages.

2 93. Plaintiff is informed and believes that, at all relevant time during the applicable
3 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
4 members all of their final wages in accordance with the Labor Code.

5 94. Plaintiff is informed and believes that, at all relevant times during the applicable
6 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
7 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
8 sections 201 or 202 by failing to timely pay them all final wages.

9 95. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to
10 timely pay all final wages to him and **Waiting Time Penalties Sub-Class** members have been
11 willful in that Defendants have the ability to pay final wages in accordance with Labor Code
12 sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible
13 with those requirements.

14 96. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of himself and
15 **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their
16 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

17 97. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
18 and/or the common fund doctrine, Plaintiff, on behalf of himself and **Waiting Time Penalties Sub-**
19 **Class** members, seek awards of reasonable attorneys' fees and costs.

20 **SIXTH CAUSE OF ACTION**

21 **UNFAIR COMPETITION**

22 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

23 **(Plaintiff and UCL Class)**

24 98. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
25 herein.

26 99. Business and Professions Code section 17200 defines "unfair competition" to
27 include any unlawful business practice.

28 100. Business and Professions Code section 17203-17204 allow a person who has lost

1 money or property as a result of unfair competition to bring a class action in accordance with Code
2 of Civil Procedure section 382 to recover money or property that may have been acquired from
3 similarly situated persons by means of unfair competition.

4 101. California law requires employers to pay hourly, non-exempt employees for all hours
5 they are permitted or suffered to work, including hours that the employer knows or reasonable
6 should know that employees have worked.

7 102. Plaintiff and the **UCL Class** members re-alleges and incorporates the FIRST,
8 SECOND and THIRD causes of action herein.

9 103. Plaintiff lost money or property as a result of the aforementioned unfair competition.

10 104. Defendants have or may have acquired money by means of unfair competition.

11 105. Plaintiff is informed and believes and thereupon alleges that by committing the
12 Labor Code violations described in this Complaint, Defendants violated Labor Code sections 215,
13 216, 225, 226.6, 354, 408, 553, 1175, 1199, which make it a misdemeanor to commit the Labor
14 Code violations alleged herein.

15 106. Defendants have committed criminal conduct through their policies and practices of,
16 *inter alia*, failing to comport with their affirmative obligations as an employer to provide non-
17 exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each
18 work period of five or more hours, by failing to provide non-exempt employees with a ten-minute
19 rest period for every four hours worked or major fraction thereof, and by failing to pay non-exempt
20 employees for all hours worked.

21 107. At all relevant times, Plaintiff and **UCL Class** members have been non-exempt
22 employees and entitled to the full protections of both the Labor Code and the applicable Wage
23 Order.

24 108. Defendants' unlawful conduct as alleged in this Complaint amounts to and
25 constitutes unfair competition within the meaning of Business and Professions Code section 17200
26 *et seq.* Business and Professions Code sections 17200 *et seq.* protects against unfair competition
27 and allows a person who has suffered an injury-in-fact and has lost money or property as a result of
28 an unfair, unlawful or fraudulent business practice to seek restitution on him own behalf and on

1 behalf of similarly situated persons in a class action proceeding.

2 109. As a result of Defendants' violations of the Labor Code during the applicable
3 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
4 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
5 conduct.

6 110. Plaintiff is informed and believes that other similarly situated persons have been
7 subject to the same unlawful policies or practices of Defendants.

8 111. Due to the unfair and unlawful business practices in violation of the Labor Code,
9 Defendants have gained a competitive advantage over other comparable companies doing business
10 in the State of California that comply with their legal obligations.

11 112. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
12 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act
13 violates or is considered unlawful under any other state or federal law.

14 113. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs
15 request the issuance of temporary, preliminary and permanent injunctive relief enjoining
16 Defendants, and each of them, and their agents and employees, from further violations of the Labor
17 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek
18 an order permanently enjoining Defendants, and each of them, and their respective agents and
19 employees, from further violations of the Labor Code and applicable Industrial Welfare
20 Commission Wage Orders.

21 114. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
22 himself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
23 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
24 and unfair business practices.

25 115. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
26 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
27 reasonable attorneys' fees in connection with their unfair competition claims.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, prays for relief and judgment against Defendants as follows:

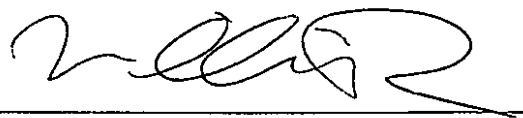
- (1) An order that the action be certified as a class action;
- (2) An order that Plaintiff be appointed class representative;
- (3) An order that counsel for Plaintiff be appointed class counsel;
- (4) Unpaid wages;
- (5) Actual damages;
- (6) Liquidated damages;
- (7) Restitution;
- (8) Declaratory relief;
- (9) Pre-judgment interest;
- (10) Statutory penalties;
- (11) Costs of suit;
- (12) Reasonable attorneys' fees; and
- (13) Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself, all other similarly situated, hereby demands a jury trial on all issues so triable.

DATED: February 19, 2019

SETAREH LAW GROUP



SHAUN SETAREH
Attorneys for Plaintiff
HASIM A. MOHAMMED

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun Setareh (SBN 204514) SETAREH LAW GROUP 315 South Beverly Drive, Suite 315 Beverly Hills, California 90212 TELEPHONE NO: (310) 888-7771 FAX NO. (310) 888-0109 ATTORNEY FOR (Name): Hasim A. Mohammed	FOR COURT USE ONLY Electronically Filed by Superior Court of CA, County of Santa Clara, on 2/19/2019 5:31 PM Reviewed By: R. Walker Case #19CV342788 Envelope: 2529544
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 BRANCH NAME: Downtown Superior Court	CASE NAME: Mohammed v. American Airlines, Inc.
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER 19CV342788 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|---|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input checked="" type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **Six**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 19, 2019
 Shaun Setareh, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

<p>Auto Tort</p> <p>Auto (22)—Personal Injury/Property Damage/Wrongful Death</p> <p>Uninsured Motorist (46) (<i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i>)</p> <p>Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p>Asbestos (04)</p> <p>Asbestos Property Damage</p> <p>Asbestos Personal Injury/Wrongful Death</p> <p>Product Liability (<i>not asbestos or toxic/environmental</i>) (24)</p> <p>Medical Malpractice (45)</p> <p>Medical Malpractice—Physicians & Surgeons</p> <p>Other Professional Health Care Malpractice</p> <p>Other PIP/D/W/D (23)</p> <p>Premises Liability (e.g., slip and fall)</p> <p>Intentional Bodily Injury/PD/W/D (e.g., assault, vandalism)</p> <p>Intentional Infliction of Emotional Distress</p> <p>Negligent Infliction of Emotional Distress</p> <p>Other PIP/D/W/D</p> <p>Non-PIP/D/W/D (Other) Tort</p> <p>Business Tort/Unfair Business Practice (07)</p> <p>Civil Rights (e.g., discrimination, false arrest) (<i>not civil harassment</i>) (08)</p> <p>Defamation (e.g., slander, libel) (13)</p> <p>Fraud (16)</p> <p>Intellectual Property (19)</p> <p>Professional Negligence (25)</p> <p>Legal Malpractice</p> <p>Other Professional Malpractice (<i>not medical or legal</i>)</p> <p>Other Non-PIP/D/W/D Tort (35)</p> <p>Employment</p> <p>Wrongful Termination (36)</p> <p>Other Employment (15)</p>	<p>Contract</p> <p>Breach of Contract/Warranty (06)</p> <p>Breach of Rental/Lease Contract (<i>not unlawful detainer or wrongful eviction</i>)</p> <p>Contract/Warranty Breach—Seller Plaintiff (<i>not fraud or negligence</i>)</p> <p>Negligent Breach of Contract/Warranty</p> <p>Other Breach of Contract/Warranty</p> <p>Collections (e.g., money owed, open book accounts) (09)</p> <p>Collection Case—Seller Plaintiff</p> <p>Other Promissory Note/Collections Case</p> <p>Insurance Coverage (<i>not provisionally complex</i>) (18)</p> <p>Auto Subrogation</p> <p>Other Coverage</p> <p>Other Contract (37)</p> <p>Contractual Fraud</p> <p>Other Contract Dispute</p> <p>Real Property</p> <p>Eminent Domain/Inverse Condemnation (14)</p> <p>Wrongful Eviction (33)</p> <p>Other Real Property (e.g., quiet title) (26)</p> <p>Writ of Possession of Real Property</p> <p>Mortgage Foreclosure</p> <p>Quiet Title</p> <p>Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>)</p> <p>Unlawful Detainer</p> <p>Commercial (31)</p> <p>Residential (32)</p> <p>Drugs (38) (<i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i>)</p> <p>Judicial Review</p> <p>Asset Forfeiture (05)</p> <p>Petition Re: Arbitration Award (11)</p> <p>Writ of Mandate (02)</p> <p>Writ—Administrative Mandamus</p> <p>Writ—Mandamus on Limited Court Case Matter</p> <p>Writ—Other Limited Court Case Review</p> <p>Other Judicial Review (39)</p> <p>Review of Health Officer Order</p> <p>Notice of Appeal—Labor Commissioner Appeals</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</p> <p>Antitrust/Trade Regulation (03)</p> <p>Construction Defect (10)</p> <p>Claims Involving Mass Tort (40)</p> <p>Securities Litigation (28)</p> <p>Environmental/Toxic Tort (30)</p> <p>Insurance Coverage Claims (<i>arising from provisionally complex case type listed above</i>) (41)</p> <p>Enforcement of Judgment</p> <p>Enforcement of Judgment (20)</p> <p>Abstract of Judgment (Out of County)</p> <p>Confession of Judgment (<i>non-domestic relations</i>)</p> <p>Sister State Judgment</p> <p>Administrative Agency Award (<i>not unpaid taxes</i>)</p> <p>Petition/Certification of Entry of Judgment on Unpaid Taxes</p> <p>Other Enforcement of Judgment Case</p> <p>Miscellaneous Civil Complaint</p> <p>RICO (27)</p> <p>Other Complaint (<i>not specified above</i>) (42)</p> <p>Declaratory Relief Only</p> <p>Injunctive Relief Only (<i>non-harassment</i>)</p> <p>Mechanics Lien</p> <p>Other Commercial Complaint Case (<i>non-tort/non-complex</i>)</p> <p>Other Civil Complaint (<i>non-tort/non-complex</i>)</p> <p>Miscellaneous Civil Petition</p> <p>Partnership and Corporate Governance (21)</p> <p>Other Petition (<i>not specified above</i>) (43)</p> <p>Civil Harassment</p> <p>Workplace Violence</p> <p>Elder/Dependent Adult Abuse</p> <p>Election Contest</p> <p>Petition for Name Change</p> <p>Petition for Relief From Late Claim</p> <p>Other Civil Petition</p>
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CIVIL LAWSUIT NOTICE

CASE NUMBER: **19CV342788**

*Superior Court of California, County of Santa Clara
191 N. First St., San Jose, CA 95113*

READ THIS ENTIRE FORM

PLAINTIFFS (the person(s) suing): Within 60 days after filing the lawsuit, you must serve each defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANTS (The person(s) being sued): You must do each of the following to protect your rights:

1. You must file a written response to the *Complaint*, in the Clerk's Office of the Court, within 30 days of the date the *Summons* and *Complaint* were served on you;
2. You must send a copy of your written response to the plaintiff; and
3. You must attend the first Case Management Conference.

Warning: If you do not do these three things, you may automatically lose this case.

RULES AND FORMS: You must follow the California Rules of Court (CRC) and the Santa Clara County Superior Court Local Civil Rules and use proper forms. You can get legal information, view the rules and get forms, free of charge, from the Self-Service Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>
- Rose Printing: 408-293-8177 or beckv@rose-printing.com (there is a charge for forms)

For other local legal information, visit the Court's Self-Service website www.sccselfservice.org and select "Civil."

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone - see Local Civil Rule 8.

Your Case Management Judge is: Hon. Brian C. Walsh Department: 1

The 1st CMC is scheduled for: (Completed by Clerk of Court)
 Date: 6/7/19 Time: 10:00am in Department 1

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)
 Date: _____ Time: _____ in Department _____

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civil/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
191 N. FIRST STREET
SAN JOSE, CA 95113-1090**

Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 2/20/2019 10:03 AM
Reviewed By: R. Walker
Case #19CV342788
Envelope: 2531134

TO: FILE COPY

RE: Mohammed v. American Airlines, Inc.
CASE NUMBER: 19CV342788

ORDER DEEMING CASE COMPLEX AND STAYING DISCOVERY

WHEREAS, the Complaint was filed by Plaintiff **HASIM A. MOHAMMED** ("Plaintiff") in the Superior Court of California, County of Santa Clara, on **February 19, 2019** and assigned to Department 1 (Complex Civil Litigation), the **Honorable Brian C. Walsh** presiding, pending a ruling on the complexity issue;

IT IS HEREBY ORDERED that:

The Court determines that the above-referenced case is **COMPLEX** within the meaning of California Rules of Court 3.400. The matter remains assigned, for all purposes, including discovery and trial, to Department 1 (Complex Civil Litigation), the **Honorable Brian C. Walsh** presiding.

The parties are directed to the Court's local rules and guidelines regarding electronic filing and to the Complex Civil Guidelines, which are available on the Court's website.

Pursuant to California Rules of Court, Rule 3.254, the creation and maintenance of the Master Service List shall be under the auspices of (1) Plaintiff **HASIM A. MOHAMMED**, as the first-named party in the Complaint, and (2) the first-named party in each Cross-Complaint, if any.

Pursuant to Government Code section 70616(c), each party's complex case fee is due within ten (10) calendar days of this date.

Plaintiff shall serve a copy of this Order on all parties forthwith and file a proof of service within seven (7) days of service.

Any party objecting to the complex designation must file an objection and proof of service within ten (10) days of service of this Order. Any response to the objection must be filed within seven (7) days of service of the objection. The Court will make its ruling on the submitted pleadings.

The Case Management Conference remains set for **June 7, 2019 at 10:00 a.m. in Department 1** and all counsel are ordered to attend in person.

Counsel for all parties are ordered to meet and confer in person at least 15 days prior to the First Case Management Conference and discuss the following issues:

1. Issues related to recusal or disqualification;
2. Issues of law that, if considered by the Court, may simplify or further resolution of the case, including issues regarding choice of law;

3. Appropriate alternative dispute resolution (ADR), for example, mediation, mandatory settlement conference, arbitration, mini-trial;
4. A plan for preservation of evidence and a uniform system for identification of documents throughout the course of this litigation;
5. A plan for document disclosure/production and additional discovery; which will generally be conducted under court supervision and by court order;
6. Whether it is advisable to address discovery in phases so that information needed to conduct meaningful ADR is obtained early in the case (counsel should consider whether they will stipulated to limited merits discovery in advance of certification proceedings), allowing the option to complete discovery if ADR efforts are unsuccessful;
7. Any issues involving the protection of evidence and confidentiality;
8. The handling of any potential publicity issues;

Counsel for Plaintiff is to take the lead in preparing a Joint Case Management Conference Statement to be filed 5 calendars days prior to the First Case Management Conference, and include the following:

1. A Statement as to whether additional parties are likely to be added and a proposed date by which all parties must be served;
2. Service lists identifying all primary and secondary counsel, firm names, addresses, telephone numbers, email addresses and fax numbers for all counsel;
3. A description of all discovery completed to date and any outstanding discovery as of the date of the conference;
4. Applicability and enforceability of arbitration clauses, if any;
5. A list of all related litigation pending in other courts, including Federal Court, and a brief description of any such litigation, and a statement as to whether any additional related litigation is anticipated (CRC 3.300);
6. A description of factual and legal issues – the parties should address any specific contract provisions the interpretation of which may assist in resolution of significant issues in the case;
7. The parties' tentative views on an ADR mechanism and how such mechanism might be integrated into the course of the litigation;
8. Whether discovery should be conducted in phases or limited; and if so, the order of phasing or types of limitations of discovery. If this is a class action lawsuit, the parties should address the issue of limited merits discovery in advance of class certification motions.

To the extent the parties are unable to agree on the matters to be addressed in the Joint Case Management Conference Statement, the positions of each party or of various parties should be set forth separately and attached to this report as addenda. The parties are encouraged to propose, either jointly or separately, any approaches to case management they believe will promote the fair and efficient handling of this case. The Court is particularly interested in identifying potentially dispositive or significant threshold issues the early resolution of which may assist in moving the case toward effective ADR and/or a final disposition.

STAY ON DISCOVERY AND RESPONSIVE PLEADING DEADLINE Pending further order of this Court, the service of discovery and the obligation to respond to any outstanding discovery is stayed. However, Defendant(s) shall file a Notice of Appearance for purposes of identification of counsel and preparation of a service list. The filing of such a Notice of Appearance shall be without prejudice to the later filing of a motion to quash to contest jurisdiction. Parties shall not file or serve responsive pleadings, including answers to the complaint, motions to strike, demurrers, motions for

change of venue and cross-complaints until a date is set at the First Case Management Conference for such filings and hearings.

This Order is issued to assist the Court and the parties in the management of this "Complex" case through the development of an orderly schedule for briefing and hearings. This Order shall not preclude the parties from continuing to informally exchange documents that may assist in their initial evaluation of the issues presented in this Case.

Plaintiff shall serve a copy of this Order on all the parties in this matter forthwith.

SO ORDERED.

Date: 2-20-19



Hon. Brian C. Walsh
Judge of the Superior Court

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line, (408) 882-2690 or the Voice/TDD California Relay Service, (800) 735-2922.

EXHIBIT B

1 ROBERT A. SIEGEL (S.B. #64604)
rsiegel@omm.com
2 O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
3 Los Angeles, CA 90071-2899
Telephone: 213-430-6000
4 Facsimile: 213-430-6407

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/22/2019 5:01 PM
Reviewed By: R. Walker
Case #19CV342788
Envelope: 2663184**

5 ADAM P. KOHSWEENEY (S.B. #229983)
akohsweeney@omm.com
6 SUSANNAH K. HOWARD (S.B. #291326)
showard@omm.com
7 KRISTIN M. MACDONNELL (S.B. #307124)
kmacdonnell@omm.com
8 O'MELVENY & MYERS LLP
Two Embarcadero Center
9 28th Floor
San Francisco, California 94111-3823
10 Telephone: +1 415 984 8700
Facsimile: +1 415 984 8701

11 Attorneys for Defendant
12 American Airlines, Inc.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SANTA CLARA**

16 HASIM A. MOHAMMED, on behalf of
17 himself, all others similarly situated,
18 Plaintiff,
19 v.
20 AMERICAN AIRLINES, INC., a Delaware
Corporation; and Does 1 through 50, Inclusive
21 Defendants.

Case No. 19CV342788

**DEFENDANT AMERICAN AIRLINES,
INC.'S ANSWER TO PLAINTIFF'S
UNVERIFIED CLASS ACTION
COMPLAINT**

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1 Defendant American Airlines, Inc. (“American” or “Defendant”), for itself alone and for
2 no other defendant, hereby answers the unverified complaint herein, dated February 19, 2019,
3 (the “Complaint”), as follows:

4 Pursuant to the provisions of Section 431.30 of the California Code of Civil Procedure,
5 Defendant denies each and every, all and singular, allegations of the Complaint and also denies
6 that Plaintiff Hasim A. Mohammed (“Plaintiff”) or any putative member of any purported class
7 set forth in the Complaint were damaged in the sum or sums alleged or in any sum at all.
8 Defendant further specifically denies that any of the claims alleged by Plaintiff in the Complaint
9 may properly be adjudicated on a class-action and/or representative basis.

10 **AS AND FOR ITS AFFIRMATIVE DEFENSES TO ALL CAUSES OF ACTION**
11 **PURPORTED TO BE SET FORTH AGAINST IT BY PLAINTIFF ON BEHALF OF**
12 **HIMSELF, AND ON BEHALF OF THE PUTATIVE MEMBERS OF EACH**
13 **PURPORTED CLASS AS SET FORTH IN THE COMPLAINT, DEFENDANT ALLEGES**
14 **AS FOLLOWS:**

15 **FIRST AFFIRMATIVE DEFENSE**

16 **Failure to State a Cause of Action**

17 Plaintiff’s claims, and each of them, brought on behalf of himself and the putative
18 members of the purported classes as set forth in the Complaint, or some of them, fail to state facts
19 sufficient to constitute a cause of action against Defendant.

20 **SECOND AFFIRMATIVE DEFENSE**

21 **Preemption**

22 Plaintiff’s claims, and each of them, brought on behalf of himself and the putative
23 members of the purported classes as set forth in the Complaint, or some of them, are barred in
24 whole or in part because they are preempted by, *inter alia*, the Railway Labor Act, 29 U.S.C. §§
25 151 *et seq.* and/or the Airline Deregulation Act, 49 U.S.C. §§ 40120 *et seq.*

26 **THIRD AFFIRMATIVE DEFENSE**

27 **Dormant Commerce Clause Preemption**

28 Plaintiff’s claims, and each of them, brought on behalf of himself and the putative

1 members of the purported classes as set forth in the Complaint, or some of them, are barred in
2 whole or in part because the application of California law to employment in other states or
3 countries would violate the Dormant Commerce Clause of the United States and California
4 Constitutions given that said laws, facially and as applied to this action, would impose a burden
5 on interstate commerce that is clearly excessive in relation to the putative local benefits.

6 **FOURTH AFFIRMATIVE DEFENSE**

7 Lawful Exemptions

8 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
9 members of each purported class as set forth in the Complaint, or some of them, are barred in
10 whole or in part by California Labor Code § 514 and/or Industrial Welfare Commission Order
11 No. 9-2001, § 1(E).

12 **FIFTH AFFIRMATIVE DEFENSE**

13 Statute of Limitations

14 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
15 members of the purported classes as set forth in the Complaint, or some of them, are barred in
16 whole or in part by the applicable statutes of limitations, including without limitation, the
17 limitations periods prescribed in California Business and Professions Code § 17209, California
18 Labor Code § 203, and California Code of Civil Procedure §§ 338, 340, and/or 340.

19 **SIXTH AFFIRMATIVE DEFENSE**

20 No Standing

21 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
22 members of the purported classes as set forth in the Complaint, or some of them, are barred in
23 whole or in part because Plaintiff lacks standing.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 No Class Action

26 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
27 members of the purported classes as set forth in the Complaint, or some of them, fail to meet the
28 necessary requirements for class certification, including, *inter alia*, class ascertainability,

1 typicality, commonality, numerosity, manageability, superiority, and adequacy of the class
2 representative and/or counsel.

3 **EIGHTH AFFIRMATIVE DEFENSE**

4 Unconstitutional Action

5 Certification of a class or representative action under the circumstances of this case would
6 violate Defendant's rights under the United States Constitution and California Constitution.

7 **NINTH AFFIRMATIVE DEFENSE**

8 Conduct Reasonable and In Good Faith/Not Willful

9 Plaintiff's claims and each of them, brought on behalf of himself and the putative
10 members of the purported classes as set forth in the Complaint, or some of them, are barred in
11 whole or in part because Defendant has at all times acted in good faith, in conformity with and in
12 reliance on written administrative regulations, orders, rulings, guidelines, approvals, and/or
13 interpretations of federal and California agencies, and on the basis of a good-faith and reasonable
14 belief that it had complied fully with California wage and hour laws.

15 **TENTH AFFIRMATIVE DEFENSE**

16 No "Knowing and Intentional" Violations and No Injury

17 Neither Plaintiff nor any putative class members are entitled to penalties under California
18 Labor Code § 226 because Defendant's behavior was not "knowing and intentional" and/or
19 because no injury was suffered.

20 **ELEVENTH AFFIRMATIVE DEFENSE**

21 Waiver

22 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
23 members of the purported classes as set forth in the Complaint, or some of them, are barred in
24 whole or in part because such claims have been waived, discharged, and/or abandoned.

25 **TWELFTH AFFIRMATIVE DEFENSE**

26 Accord and Satisfaction, Payment

27 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
28 members of the purported classes as set forth in the Complaint, or some of them, are barred in

1 whole or in part by the principles of accord and satisfaction and payment.

2 **THIRTEENTH AFFIRMATIVE DEFENSE**

3 Release

4 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
5 members of the purported classes as set forth in the Complaint, or some of them, are barred in
6 whole or in part because Plaintiff released the claims at issue.

7 **FOURTEENTH AFFIRMATIVE DEFENSE**

8 Res Judicata and/or Collateral Estoppel

9 Plaintiff's causes of action as set forth in the Complaint, or some of them, are barred in
10 whole or in part by the doctrines of *res judicata* and/or collateral estoppel because they have
11 already been adjudicated through the grievance procedures of the applicable collective bargaining
12 agreement(s) and/or by other litigation.

13 **FIFTEENTH AFFIRMATIVE DEFENSE**

14 Setoff and Recoupment

15 If any damages have been sustained by Plaintiff, or by any putative member of the
16 purported class as set forth in the Complaint, although such is not admitted hereby or herein and
17 is specifically denied, Defendant is entitled under the equitable doctrine of setoff and recoupment
18 to offset all obligations of the Plaintiff or putative class members owed to Defendant against any
19 judgment that may be entered against Defendant.

20 **SIXTEENTH AFFIRMATIVE DEFENSE**

21 No Jury Trial

22 Plaintiff is not entitled to have equitable issues or matters of law tried to a jury, and
23 Plaintiff's demand for a jury trial should be so limited.

24 **SEVENTEENTH AFFIRMATIVE DEFENSE**

25 Adequate Remedy at Law

26 To the extent Plaintiff seeks such relief, any claim by Plaintiff for equitable relief is barred
27 because, to the extent Plaintiff and/or the putative class members are entitled to any remedy,
28 which is not admitted hereby or herein, Plaintiff and/or the putative class members have an

1 adequate remedy at law and/or other requirements for granting injunctive or other equitable relief
2 cannot be satisfied.

3 **EIGHTEENTH AFFIRMATIVE DEFENSE**

4 Restitution Only

5 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
6 members of the purported classes as set forth in the Complaint, or some of them, are barred in
7 whole or in part to the extent they seek to receive penalties or other non-restitutionary awards
8 pursuant to California Business & Professions Code.

9 **NINETEENTH AFFIRMATIVE DEFENSE**

10 Estoppel

11 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
12 members of the purported classes as set forth in the Complaint, or some of them, are barred in
13 whole or in part because Plaintiff is estopped by his own conduct to claim any right to damages or
14 other monetary relief, or any additional damages or other monetary relief, from Defendant.

15 **TWENTIETH AFFIRMATIVE DEFENSE**

16 Unclean Hands

17 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
18 members of the purported classes as set forth in the Complaint, or some of them, are barred in
19 whole or in part by Plaintiff's unclean hands and/or inequitable or wrongful conduct.

20 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

21 Laches

22 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
23 members of the purported classes as set forth in the Complaint, or some of them, are barred in
24 whole or in part by the doctrine of laches.

25 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

26 Due Process

27 Any award of restitution under Plaintiff's sixth cause of action pursuant to the California
28 Business & Professions Code §§ 17200 *et seq.* would violate the Excessive Fines and Due

1 Process Clauses of the United States and California Constitutions.

2 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

3 No Unfair or Unlawful Practice

4 Plaintiff's cause of action under California Business & Professions Code §§ 17200 *et seq.*
5 is barred, in whole or in part, because Defendant's alleged practices were not "unfair" or
6 "unlawful," the public was not and would not likely have been deceived by any such alleged
7 practices, Defendant would have gained no competitive advantage by engaging in such alleged
8 practices, and the benefits of the alleged practices outweighed any harm or other impact they
9 might have caused.

10 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

11 Unconstitutional Remedy - California Business & Professions Code

12 Any finding of liability pursuant to the California Business & Professions Code would
13 violate the Due Process Clauses of the United States and California Constitutions because, *inter*
14 *alia*, the standards of liability under the Business & Professions Code are unduly vague and
15 ambiguous, and permit retroactive, random, arbitrary, and capricious punishment that serves no
16 legitimate governmental interest.

17 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

18 Unjust, Arbitrary and Oppressive, or Confiscatory Penalties

19 Plaintiff, and the putative members of the purported classes as set forth in the Complaint,
20 are not entitled to recover any civil penalties and/or fines pursuant to Plaintiff's causes of action,
21 because, under the circumstances of this case, any such recovery would be unjust, arbitrary and
22 oppressive, or confiscatory.

23 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

24 Proper Calculations and Documentation

25 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
26 members of the purported classes as set forth in the Complaint, or some of them, are barred in
27 whole or in part because at all relevant times at issue, Defendant properly tracked the hours
28 worked by non-exempt employees, compensated them for hours worked at the appropriate rates

1 pursuant to California law, and documented such compensation in legally sufficient wage
2 statements.

3 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

4 No Private Right of Action

5 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
6 members of the purported classes as set forth in the Complaint, or some of them, are barred to the
7 extent they are brought under California Labor Code Section 226.7, as there is no private right of
8 action under said statute.

9 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

10 Frivolous Claims

11 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
12 members of the purported classes as set forth in the Complaint, or some of them, are "frivolous,
13 unreasonable, or groundless" within the meaning of *Christianburg v. Garment Co. v. EEOC*, 434
14 U.S. 412 (1978) and *Cummings v. Benco Building Servs.*, 11 Cal. App. 4th 383 (1992), and,
15 accordingly, Defendant should recover all costs and attorneys' fees incurred herein.

16 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

17 De Minimis Harm

18 Plaintiff's claims, and each of them, brought on behalf of himself and the putative
19 members of the purported classes as set forth in the Complaint, or some of them, are barred in
20 whole or in part because any time Plaintiff or putative class members worked allegedly without
21 compensation was *de minimis* and not compensable.

22 **THIRTIETH AFFIRMATIVE DEFENSE**

23 Attorneys' Fees

24 Defendant is entitled to recover all costs and attorneys' fees incurred herein under
25 California Labor Code § 218.5.

26 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

27 Defendant is informed and believes and on that basis alleges that Defendant may have
28 additional defenses available, which are not now fully known and of which it is not now aware.

1 Defendant reserves the right to raise and assert such additional defenses once such additional
2 defenses have been ascertained.

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WHEREFORE, Defendant American Airlines, Inc. prays as follows:

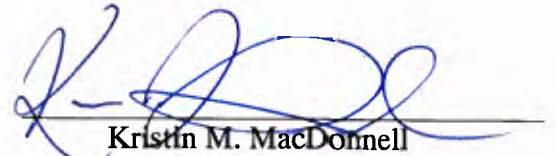
1. That the Complaint and each cause of action therein be dismissed with prejudice;
2. That Plaintiff take nothing by way of the Complaint;
3. That Defendant be awarded costs of suit and attorneys' fees herein; and
4. That the Court order such other and further relief for Defendant as the Court may deem just and proper.

Dated: March 22, 2019

ADAM P. KOHSWEENEY
SUSANNAH K. HOWARD
KRISTIN M. MACDONNELL

O'MELVENY & MYERS LLP

By:



Kristin M. MacDonnell
Attorneys for Defendant
American Airlines, Inc.

by Superior Court of CA,
County of Santa Clara,
on 3/22/2019 5:01 PM
Reviewed By:R. Walker
Case #19CV342788
Env #2663184

PROOF OF SERVICE

I, Sanaa Kharufeh, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Two Embarcadero Center, 28th Floor, San Francisco, California 94111-3823. On March 22, 2019, I served the within document(s):

DEFENDANT AMERICAN AIRLINES, INC.'S ANSWER TO PLAINTIFF'S UNVERIFIED CLASS ACTION COMPLAINT

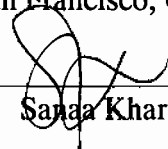
by transmitting via facsimile machine the document(s) listed above to the fax number(s) set forth below on this date. The outgoing facsimile machine telephone number in this office is +1 415 984 8701.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

by causing the document(s) to be emailed or electronically transmitted to the person(s) at the email addresses set forth below, pursuant to a court order or an agreement of the parties to accept service by email or electronic transmission. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

SETAREH LAW GROUP
Shaun Setareh
William M. Pao
Lilit Ter-Astvatsatryan
315 South Beverly Drive, Suite 315
Beverly Hills, CA 90212
Telephone: 310-888-7771
Facsimile: 310-888-0109

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 22, 2019, at San Francisco, California.


Sanaa Kharufeh

1 ROBERT A. SIEGEL (S.B. #64604)
rsiegel@omm.com
2 O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
3 Los Angeles, CA 90071-2899
Telephone: 213-430-6000
4 Facsimile: 213-430-6407

5 ADAM P. KOHSWEENEY (S.B. #229983)
akohsweeney@omm.com
6 SUSANNAH K. HOWARD (S.B. #291326)
showard@omm.com
7 KRISTIN M. MACDONNELL (S.B. #307124)
kmacdonnell@omm.com
8 O'MELVENY & MYERS LLP
Two Embarcadero Center
9 San Francisco, CA 94111-3823
Telephone: 415-984-8912
10 Facsimile: 415-984-8701

11 Attorneys for Defendant
American Airlines, Inc.
12
13
14

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN JOSE DIVISION**
18

19 HASIM A. MOHAMMED, on behalf of
himself, all others similarly situated

20 Plaintiff,
21

22 v.

23 AMERICAN AIRLINES, INC., a
Corporation; and DOES 1 through 50,
inclusive,

24 Defendants.
25
26
27
28

Case No. CV _____

**DECLARATION OF LISA MAGDALENO
IN SUPPORT OF NOTICE OF REMOVAL
OF DEFENDANT AMERICAN AIRLINES,
INC.**

(28 U.S.C. §§ 1332(d), 1441(a))

(Santa Clara County Superior Court Case No.
19CV342788)

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I, Lisa Magdaleno, declare and state as follows:

1. I am currently employed by American Airlines, Inc. (“American”) in the capacity of Paralegal, Legal-Employment. I have worked for American since August 21, 1995, and have worked as a paralegal for American since September 1, 2004. In my current position, I have access to the collective bargaining agreements applicable to American’s various employee groups, as well as records showing the number of employees in each work group. In attesting to the matters set forth in this declaration, I reviewed these records, which American keeps in the regular course of business. If called as a witness, I could and would competently testify to the matters set forth herein.

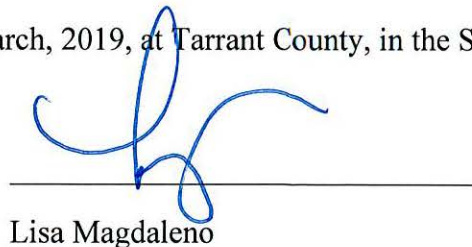
2. American currently employs approximately 1,379 ramp agents in the State of California.

3. Under the current collective bargaining agreement, entered between American and the Transport Workers Union of America, AFL-CIO, the union that represents American ramp agents, the lowest base hourly wage for a ramp agent is \$14.18 per hour.

4. American is a Delaware corporation and has its headquarters in Fort Worth, Texas.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 25th day of March, 2019, at Tarrant County, in the State of Texas.



Lisa Magdaleno

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Hasim A. Mohammed

(b) County of Residence of First Listed Plaintiff Unknown (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Shaun Setarch, William P. Pao, Lilit Ter-Astvatsaryan Setarch Law Group 315 South Beverly Drive, Suite 315 Beverly Hills, CA 90212 / Tel: 310-888-7771

DEFENDANTS

American Airlines, Inc.

County of Residence of First Listed Defendant Tarrant County, TX (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Robert A. Siegel, Adam P. KohSweeney, Susannah K. Howard, Kristin M. MacDonnell O'Melveny & Myers LLP Two Embarcadero Center, Floor 28 San Francisco, CA 94111 / Tel: 415-984-8700

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options like 'Citizen of This State', 'Citizen of Another State', 'Citizen or Subject of a Foreign Country', 'Incorporated or Principal Place of Business In This State', etc.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each category lists specific legal codes and descriptions.

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): Class Action Fairness Act, 28 U.S.C. § 1332(d) Brief description of cause: Plaintiff alleges failure by Defendant to provide meal & rest breaks, timely pay all wages, and provide accurate wage statements.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND X SAN JOSE EUREKA-MCKINLEYVILLE

DATE 03/25/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Adam P. KohSweeney

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [American Airlines Facing Ex-Employee's Lawsuit Over Allegedly Missed Breaks, Unpaid Wages](#)
