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ENDORSED
FILED
San Francisco County Superior Court

MAR 16 2015

CLERK OF THE COURT
BY: DENNIS TOYAMA
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CGC-15-544750

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| DIANA VENTURA, individually, and on behalf of others similarly situated,<br><br>Plaintiffs,<br><br>vs.<br><br>HOMEJOY, INC. CORPORATION (DBA HOMEJOY) and DOES 1-20, inclusive,<br><br>Defendants. | Case No.: Case #<br><br>**CLASS ACTION**<br><br>**COMPLAINT FOR DAMAGES**<br><br>**(1) FAILURE TO PAY OVERTIME WAGES (CAL. LAB. CODE §§ 204, 510, 1194 and I.W.C. WAGE ORDERS NO. 5-2001 and 15-2001);**<br><br>**(2) FAILURE TO PAY MINIMUM WAGE (CAL. LAB. CODE §§ 1194, 1197, 1197.1 and I.W.C. WAGE ORDERS NO. 5-2001 and 15-2001);**<br><br>**(3) FAILURE TO REIMBURSE REQUIRED BUSINESS EXPENSES (CAL. LAB. CODE § 2802);**<br><br>**(4) FAILURE TO PROVIDE MEAL PERIODS (CAL. LAB. CODE §§ 226.7, 512 and I.W.C. WAGE ORDERS NO. 5-2001 and 15-2001);**<br><br>**(5) FAILURE TO PROVIDE REST PERIODS (CAL. LAB. CODE § 226.7 and I.W.C. WAGE ORDERS NO. 5-2001** |

and 15-2001);

(6) FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS (CAL. LAB. CODE § 226);

(7) FAILURE TO PAY EARNED WAGES UPON DISCHARGE (CAL. LAB. CODE §§ 201-203);

(8) FAILURE TO PROVIDE CLEAR AND CONSPICUOUS DISCLOSURE IN WRITING IN VIOLATION OF CALIFORNIA CIVIL CODE § 1786.16(a)(2)(B)

(9) FAILURE TO PROVIDE OPPORTUNITY TO REQUEST and RECEIVE COPY OF CONSUMER REPORT IN VIOLATION OF CALIFORNIA CIVIL CODE § 1786.16(b)

(10) UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE §§ 17200-17208 and CAL. LAB. CODE § 1199);

JURY TRIAL DEMANDED

Plaintiff Diana Ventura, on behalf of herself and all other persons similarly situated, complains and alleges as follows:

## INTRODUCTION

1. Plaintiff brings this class action for violations of the California Labor Code and California Business and Professions Code §§ 17200 *et seq.* ("UCL") on behalf of herself and all of the Cleaning Professionals (collectively referred to as "Cleaners") employed by Defendant Homejoy, Inc., and DOES 1-20 (collectively referred to "Homejoy" or "Defendants") in California (collectively referred as "Class Members") from the date four years prior to the filing of this Complaint through the date of trial in this action.[1] Plaintiff brings individual claims under the California Investigative Consumer Reporting Agencies Act ("ICRAA"), California Civil Code § 1786 *et seq.*

2. Homejoy has violated California law by misclassifying Cleaners as independent contractors when they are, in fact, employees. Due to this unlawful misclassification of Cleaners, Homejoy has violated numerous provisions of the California Labor Code, including failure to compensate Class Members for all overtime hours worked despite the fact that Plaintiff and Class Members regularly work overtime, failure to pay a minimum wage for all hours worked, failure to provide meal and rest periods, failure to pay all earned wages at the conclusion of employment, failure to adequately reimburse Class Members for business expenditures incurred and required by their jobs, and failure to furnish timely wage statements accurately showing, among other things, the total hours Class Members worked during each pay period.

3. Homejoy has also violated the ICRAA; specifically, Homejoy violated California Civil Code §§ 1786.16(a)(2)(B) and 1786.16(b)(1) by not providing Plaintiff with a clear and conspicuous disclosure in writing.

4. Plaintiff also alleges that these acts, which violate the California Labor Code, constitute predicate unlawful and unfair business practices in violation of the California Unfair Competition Laws.

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[1] Plaintiff's California Labor Code and UCL claims were tolled from February 3, 2015 to February 13, 2015.

5. In this action, Plaintiff, on behalf of herself and all Class Members, seeks unpaid overtime compensation, unpaid minimum wages, wages for missed meal and rest periods, reimbursement for required business expenses, statutory penalties, punitive damages, restitution, declaratory and injunctive relief, attorneys' fees and costs, prejudgment interest, and other relief under California Industrial Welfare Commission (I.W.C.) Wage Order 5-2001, 8 Cal. Code of Reg. § 11050 ("Wage Order 5-2001"), California I.W.C. Wage Order 15-2001, 8 Cal. Code of Reg. § 11150 ("Wage Order 15-2001"), California Labor Code ("Labor Code") §§ 201, 202, 203, 204(a), 226, 226.7, 510, 512, 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, California Code of Civil Procedure ("CCP") §§ 1021.5, UCL, and California common law.

6. The "Class Period" is designated as the time from four years prior to the filing of this Complaint through the trial of this action based upon the allegation that the violations of the Labor Code and UCL, as described more fully below, have been ongoing since at least four years prior to the date of the instant Complaint in this action and are continuing.

7. Homejoy has misclassified all of its Cleaners as independent contractors when they are, in fact, employees in violation of Wage Order 5-2001 §§ 2(E), 2(F), 2(H) and 3; Wage Order 15-2001 §§ 2(E), 2(F), 2(G), and 3; and, California common law.

8. During the Class Period, Homejoy has had a consistent policy and/or practice of: (1) misclassifying Cleaners as independent contractors instead of properly classifying them as employees; (2) permitting, encouraging, and/or requiring Cleaners to work in excess of eight hours per day and/or in excess of forty hours per week without paying them overtime compensation as required by California state wage and hour laws; (3) failing to pay Cleaners a minimum wage for all hours worked; (4) failing to provide Cleaners with adequate off-duty meal periods of at least one half hour for every five hours worked; (5) failing to provide Cleaners with adequate off-duty rest periods of at least ten minutes for every four hours or major fraction thereof worked; (6) willfully failing to pay compensation owed (including unpaid overtime and meal and rest period compensation) in a prompt and timely manner to Plaintiff and other Class Members whose employment with Homejoy terminated; (7) requiring Plaintiff and Class Members to incur business-related expenses as Cleaners, but failing to fully reimburse them for these costs; and, (8) knowingly and intentionally failing to furnish timely

itemized wage statements accurately showing the total hours worked by or hourly rate paid to Plaintiff and Class Members.

9. Accordingly, Homejoy has violated the UCL, with the violations of the California wage and hour laws described above.

10. Homejoy also failed to provide a clear and conspicuous disclosure to the Plaintiff of the information required in California Code of Civil Procedure 1786.16(a)(2)(B)(i), (iii), (iv), (v), and (vi). Homejoy also failed to provide to the Plaintiff, by means of a box to check on a written form, for example, the opportunity to request and receive a copy of Cleaners' consumer background reports, in violation of California Code of Civil Procedure 1786.16(b).

## JURISDICTION AND VENUE

11. This Court has jurisdiction over Plaintiff and Class Members' claims for unpaid overtime wages under Labor Code § 1194.

12. This Court has jurisdiction over Plaintiff and Class Members' claims for unpaid minimum wage under Labor Code §§ 510, 1194, and I.W.C. Wage Orders No. 5-2001 and 15-2001.

13. This Court has jurisdiction over Plaintiff and Class Members' claims for failure to provide meal periods under Labor Code § 226.7, and I.W.C. Wage Orders No. 5-2001 and 15-2001.

14. This Court has jurisdiction over Plaintiff and Class Members' claims for failure to provide rest periods under Labor Code § 226.7, and I.W.C. Wage Orders No. 5-2001 and 15-2001.

15. This Court has jurisdiction over Plaintiff and Class Members' claims for penalties for failure to pay wages of discharged employees under Labor Code § 203.

16. This Court has jurisdiction over Plaintiff's and Class Members' claims for failure to reimburse necessarily and reasonably incurred business expenses under Labor Code § 2802.

17. This Court has jurisdiction over Plaintiff and Class Members' claims for failure to furnish timely and accurate wage statements under Labor Code § 226.

18. This Court has jurisdiction over Plaintiff's claim for failure to provide a clear and conspicuous disclosure pursuant to California Code of Civil Procedure 1786.16(a)(2)(B).

19. This Court has jurisdiction over Plaintiff's claim for failure to provide the opportunity to request and receive a copy of Cleaners' consumer background reports under California Code of Civil Procedure 1786.16(b).

20. This Court has jurisdiction over Plaintiff's claims for injunctive relief and restitution of unpaid wages and other ill-gotten benefits arising from Defendants' unlawful and/or unfair business practices under Business and Professions Code §§ 17203 and 17204, and Labor Code §1199.

21. Venue is proper because Homejoy's principal place of business is in San Francisco.

## PARTIES

22. Plaintiff Diana Ventura currently resides in Downey, California, which is located in Los Angeles County, California. Plaintiff was employed as a Cleaner between approximately January 2013 through March 2013, and from approximately March 2014 through October 2014. While employed as a Cleaner, Plaintiff worked in Los Angeles County, where she procured cleaning jobs through Homejoy's website and/or online platform. Homejoy unilaterally terminated Plaintiff's indefinite employment relationship with the company in or around October 2014. Plaintiff is a "consumer" within the meaning of California Civil Code § 1786.2(b).

23. Defendant Homejoy, Inc. is a California corporation headquartered in San Francisco, California. Homejoy is a "person" within the meaning of California Civil Code § 1786.2(a).

24. The true names and capacities, whether individual, corporate, associate, or otherwise of Defendant sued herein as DOES 1 through 20, inclusive, are currently unknown to Plaintiff, who therefore sues Defendant by fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

25. Plaintiff is informed and believes, and based thereon alleges, that Defendants acted in all respects pertinent to this action as the agents of the other DOE defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

26. Plaintiff is informed and believes, and based thereon alleges, that Homejoy employs over forty Cleaners in the state of California.

## FACTUAL BACKGROUND

27. Homejoy has operated and conducted business as an employer of home Cleaners in the state of California. Cleaners are an integral part of Homejoy's business of providing cleaning services, among other services, to its customers. Homejoy has the right to terminate Cleaners at will.

28. Plaintiff is informed and believes, and based thereon alleges, that the skills required of Cleaners in rendering services to Homejoy are such that those services can be, and generally are, performed by employees, rather than by specially skilled independent workers.

29. There is an application process to become a Cleaner. The application process includes an in-person interview, background check, and a cleaning evaluation. Regarding the background check, Homejoy failed to provide to Plaintiff, by means of a box to check on a written form, for example, the opportunity to request and receive a copy of the consumer background report. Homejoy also failed to provide to the Plaintiff a clear and conspicuous disclosure containing the information listed in California Code of Civil Procedure 1786.16(a)(2)(B).

30. Plaintiff is informed and believes, and based thereon alleges, that Homejoy uses its website, Homejoy.com and/or its online platform, to schedule home cleaning jobs. Homejoy recommends a total cleaning time to the Customer, the Customer chooses the total cleaning time, and Homejoy then quotes a price to the Customer. The Cleaner has no input or control over this negotiation.

31. Plaintiff is informed and believes, and based thereon alleges, before assigning a job to each new Cleaner, Homejoy instructs Cleaners to provide Homejoy a territory for his or her cleaning jobs. Specifically, Plaintiff is informed and believes, and based thereon alleges, Homejoy initially instructed Cleaners to pick their territories by picking boundaries on a map. Plaintiff is informed and believes, and based thereon alleges, Homejoy changed that system in or around 2013, and began asking Cleaners to provide the company with zip codes where the Cleaners want to work.

32. Homejoy also instructs Cleaners to provide desired daily availability. For example, a Cleaner can tell Homejoy that that she is available every day of the week from 8am-8pm. Homejoy

then assigns jobs. Cleaners are unable to provide any additional information before jobs are assigned. For example, a Cleaner cannot tell Homejoy that while she may have picked different zip codes or cities as part of her territory, she only wants to stay within one zip code, or within one small part of a zip code, each day. Instead, if a Cleaner chooses Oakland and San Francisco as part of her territory, Homejoy alone determines whether the cleaner will stay in Oakland on a given day, stay in San Francisco on a given day, or travel in between the two cities multiple times on a given day. Furthermore, Cleaners cannot tell Homejoy whether they want a little or a lot of down time between each job, or each job start time or end time. Cleaners cannot tell Homejoy how much driving they prefer to do, whether the jobs need to be near public transportation, whether the Cleaners prefer to be stuck in rush hour traffic or instead on routes that are reverse commutes, how many jobs the Cleaners want to perform each day, or whether or not they want to return to a previous customer.

33. Cleaners lack control over the specific homes they can clean. Cleaners cannot determine whether there are safety concerns in that home, factor in how dirty the home is, and whether the client is likely to become a repeat customer.

34. Upon information and belief, Homejoy rewards Cleaners who provide more availability by increasing their hourly rates. Plaintiff is informed and believes, and based thereon alleges, that Cleaners are paid between fifteen and seventeen dollars per hour only for the time they spend in a home cleaning.

35. Plaintiff is informed and believes, and based thereon alleges, that Cleaners are paid only for the time they spend in a home cleaning. Homejoy tells Cleaners that in order to receive an increased hourly rate they need to receive high customer ratings and do a sufficient volume of jobs. Upon information and belief, Homejoy imposes a minimum number of jobs that Cleaners need to complete each week in order to remain on the platform.

36. When Homejoy assign a job to a Cleaner, that job is deemed accepted. If the Cleaner cancels the job within forty-eight hours of the cleaning, she is fined $20 and can be put on a performance improvement plan, and/or removed from the platform on a temporary or permanent basis (terminated).

37. Plaintiff is informed and believes, and based thereon alleges, Homejoy routinely changes Cleaners' schedules as little in advance as the night before the next day's cleaning(s). For example, a Cleaner based in Oakland who was scheduled for a cleaning at 9am in Oakland may learn that she is now scheduled for an 8am cleaning in San Francisco instead, and that other jobs scheduled for that day have also changed.

38. Each assignment lists the job start time, job duration, address, and number of bedrooms and bathrooms. Homejoy provides notes from customers about what to pay special attention to, how to enter the house, whether to bring supplies, where trash and parking are located, and whether the customer has pets. Homejoy also provides Cleaners a checklist for a standard cleaning in each job assignment communication.

39. Homejoy instructs Cleaners to wear a shirt with a Homejoy logo.

40. Cleaners do not have discretion to pick and choose their cleaning tasks or create their plan of action at the customer's home. Upon information and belief, there is a Homejoy checklist for each part of a home. For example, the checklist for the kitchen mandates that sinks and faucets are cleaned, dishes are washed, that the exterior and interior of the microwave is cleaned, countertops and backsplash are wiped, cabinet exteriors are cleaned, floors mopped and/or vacuumed, furniture and visible surfaces are wiped, baseboards are dusted, reachable vents are dusted, and that trash is emptied.

41. Plaintiff is informed and believes, and based thereon alleges, that before every cleaning, Homejoy sends an email to the Cleaner that tells the Cleaner to, among other things: arrive 5-10 minutes early to the job with all supplies; identify themselves as a Homejoy Cleaner; that cleaning time can only be extended by agreement with the customer and Homejoy; leave a thank you note encouraging the customer to book them again through Homejoy; submit only the time that they cleaned; and, that cancelling at the last minute or not showing up will result in the Cleaner's account access being immediately suspended.

42. Homejoy provides training and instructions on how its Cleaners should complete their tasks, monitors and tracks performance, and counsels of underperforming Cleaners to meet Homejoy's expectations.

43. Homejoy Cleaners cannot determine the specific homes they clean, cannot negotiate their pay, and cannot determine number of cleaning hours based on cleanliness of the house. Homejoy Cleaners lack the opportunity to increase their profit on the basis of their own skills, efforts, and/or business ideas. Homejoy Cleaners can be terminated at will and placed on performance improvement plans. Homejoy fines Cleaners who are late for a cleaning or who cancel a cleaning.

44. Plaintiff is informed and believes, and based thereon alleges, that Homejoy has the exclusive control over the price and length of time for each cleaning job. The Cleaners can neither negotiate the price nor the length of cleaning.

45. Upon information and belief, Homejoy charges Customers more for certain tasks requested by the Customer, including cleaning windows, walls, laundry, insides of ovens and insides of refrigerators. Cleaners' pay does not increase when a Customer requests these or other similar add-ons even though Homejoy is charging the Customer more for these services.

46. Plaintiff is informed and believes, and based thereon alleges, that Homejoy charges Customers at least five dollars if the Customer elects for the Cleaner to use his or her cleaning supplies instead of the Customer's cleaning supplies. Homejoy does not remit the five dollars, or any additional money, to Cleaners who use their own supplies.

47. Because the Cleaners can neither negotiate cleaning time nor have input into the length of cleaning, Homejoy controls the quality of the cleaning job. For example, the more time that a Cleaner has to complete a cleaning job, the more likely the quality of the cleaning job will increase.

48. Plaintiff is informed and believes, and based thereon alleges, that Homejoy bars Cleaners from accepting jobs from Customers unless the Customer purchases the cleaning only from Homejoy.

49. As a result of the control exercised by Homejoy over the work performed by Plaintiff and the other Cleaners, an employer-employee relationship exists and has existed at all times material to this action between Homejoy and each aggrieved employee.

50. Plaintiff is informed and believes, and based thereon alleges, that Homejoy uniformly, willfully, and intentionally misclassifies all of its Cleaners as independent contractors when they are, in fact, employees. Homejoy requires Cleaners to sign an "Independent Contractor Agreement."

51. The Independent Contractor Agreement was drafted exclusively by Homejoy and/or its legal counsel.

52. The Independent Contractor Agreement purports to classify the Cleaners as independent contractors to conceal the true employment relationship between Homejoy and its Cleaners.

53. The Independent Contractor Agreement provides, among other things, that: Homejoy retains the right to unilaterally terminate the Cleaners at any time and with or without cause.

54. Plaintiff is informed and believes, and based thereon alleges, that Homejoy illegally, willfully and intentionally misclassified its Cleaners as independent contracts when they were, in fact employees as defined by Wage Order 5-2001 §§ 2(E), 2(F), 2(H) and 3; Wage Order 15-2001 §§ 2(E), 2(F), 2(G), and 3; and, California common law.

55. Plaintiff is informed and believes, and based thereon alleges, that Cleaners regularly work beyond eight hours in a day or forty hours in a week in order to complete their cleanings, including driving from one cleaning to another.

56. Plaintiff is informed and believes, and based thereon alleges, that Homejoy's Cleaners spend part of their work time cleaning homes.

57. In addition, Cleaners spend time completing work tasks required by Homejoy that include, but are not limited to preparing in advance for customer assignments, communicating with customers via text and phone calls, communicating with Homejoy supervisors via email, text and phone calls, and submitting completed assignment information to Homejoy.

58. Cleaners also spend time during the work day traveling between the homes that they clean.

59. Cleaners must attend an orientation for which Homejoy does not pay.

60. Plaintiff is informed and believes, and based thereon alleges, that Homejoy compensates Cleaners by the hour for the time they spend in the home cleaning. Homejoy does not pay Cleaners any other form of compensation beyond this hourly rate for time spent cleaning in the home. Cleaners regularly work over eight hours per day and over forty hours per week including time spent at the home cleaning, time spent driving or otherwise commuting to and from each cleaning, and time

spent completing other work tasks required by Homejoy including logging onto the platform and making phone calls, texts, and sending emails before and after cleanings.

61. Plaintiff and Class Members are, and at all relevant times were, covered by Wage Orders No. 5-2001 and/or 15-2001. Section 3 of the Wage Orders, along with Labor Code § 510, requires employers to pay employees one-and-one-half times their normal hourly rate for hours worked in excess of eight per day and in excess of forty per week, and at twice the normal hourly rate for hours worked in excess of twelve per day and eight on the seventh day worked in a work week. However, Homejoy has had a policy and/or practice of failing to compensate Cleaners for all overtime hours worked.

62. Homejoy does not compensate Homejoy Cleaners an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1, and Industrial Welfare Commission Wage Orders 5-2001 and 15-2001. For example, Homejoy does not compensate its Cleaners for time spent driving or otherwise travelling between jobs during the workday. Homejoy only pays its Cleaners for time spent at each job site. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1, and Industrial Welfare Commission Wage Orders 5-2001 and 15-2001 for failure to pay minimum wage, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1.

63. Homejoy does not provide Cleaners with a thirty minute, duty-free meal break. Homejoy has no policy of providing Cleaners with a thirty minute, duty-free meal break within the first five work hours in a work day or a second 30-minute, duty-free meal break after ten hours worked in a worked day. Due to the volume of scheduled work assignments and the associated travel time, Cleaners regularly either skip their lunches altogether, continue to work while eating their lunches, or take their lunches only after they have worked more than five or ten hours in that workday.

64. Homejoy does not provide Cleaners with two ten minute, duty-free paid rest breaks during each workday. Homejoy has no policy of providing Cleaners with a ten minute, duty-free rest break for every four hours or major fraction thereof worked during a workday.

65. Plaintiff is informed and believes, and based thereon alleges, that Homejoy does not fully reimburse Cleaners for all reasonable and necessary business expenditures they incurred while

completing their job duties as required by Labor Code 2802. Cleaners regularly incur reasonable and necessary business expenditures in the course of completing their duties, which include, but are not limited to, wear and tear on personal vehicles used to transport them between cleaning jobs, fuel for those same personal vehicles, tolls, public transportation expenses, parking personal car insurance coverage, purchasing a cellular phone, monthly cellular phone voice and data plans, public transportation expenses, tolls and cleaning supplies. Cleaners necessarily and reasonably incurred these expenditures, but Homejoy refused to fully reimburse Cleaners for these business costs.

66. Plaintiff is informed and believes, and based thereon alleges, that Homejoy intentionally and knowingly does not furnish Cleaners with timely and accurate wage statements that show: (1) all applicable hourly rates in effect during each respective pay period and the corresponding number of hours worked by each respective individual; (2) number of hours worked; (3) gross wages earned; (4) net wages earned; (5) all deductions; (6) inclusive dates of the period for which the employee is paid; (7) the employee identification or social security number; and, (8) the address of the legal entity that is the employer. Plaintiff and Class Members have suffered actual harm and damages from Homejoy's failure to provide these accurate itemized wage statements because they remained ignorant of their actual hours worked, overtime worked, and their applicable hourly rate. Thus, the Cleaners were unable to assert their statutory protections to Homejoy's various Labor code violations at the time the violations occurred.

67. During the Class Period, Plaintiff is informed and believes, and based thereon alleges, that Homejoy has failed to pay all compensation due and owing to Plaintiff and all former Cleaners upon separation, as required by Labor Code §§ 201 and 202. Plaintiff further alleges that this failure to pay all compensation due was willfully done by Homejoy.

68. Homejoy violated California Code of Civil Procedure § 1786.16(a)(2)(B) because it failed to provide to Plaintiff a clear and conspicuous disclosure of the information listed in California Code of Civil Procedure § 1786.16(a)(2)(B).

69. Homejoy violated California Civil Code § 1786.16(b)(1) because it failed to provide to Plaintiff, by means of a box to check on a written form, for example, the opportunity to request and receive a copy of the consumer background report obtained for Cleaners.

70. During the Class Period, Plaintiff is informed and believes, and based thereon alleges, that Homejoy violated the Unfair Competition Law, California Business and Professions Code § 17200 *et seq.* and California Labor Code § 1199 by the predicate violations of the California wage and hour laws described above.

## CLASS ACTION ALLEGATIONS

71. This action is maintainable as a representative action pursuant to California Code of Civil Procedure § 382 as to violations of Wage Orders 5-2001 and 15-2001, Labor Codes and UCL for misclassification of employees as independent contractors, unpaid overtime wages, minimum wage, meal and rest break violations, waiting time penalties, failure to furnish timely, itemized wage statements, and attorneys' fees and costs. Plaintiff is a representative of other Cleaners and is acting on behalf of their interests. The similarly situated employees are known to Homejoy and are readily identifiable and locatable through Homejoy's own employment records. The Class that Plaintiff seeks to represent is defined as follows:

> All persons who worked as Cleaners for Homejoy in California at any time from four years prior to the date of filing of this action through the date of trial.

72. The individuals included within the alleged Class are so numerous that joinder of each of them would be impracticable, and the disposition of their claims in a class action, rather than in numerous individual actions, will benefit the parties, the Court, and the interests of justice.

73. Among the proposed Class there is a well-defined community of interest in the questions of law and/or fact involved, affecting the Class Members. These common questions include, but are not limited to:

a. Whether Homejoy's uniform decision to classify all Class Members as independent contractors and not as employees violates Wage Order 5-2001 §§ 2(E), 2(F), 2(H) and 3; Wage Order 15-2001 §§ 2(E), 2(F) 2(G), and 3; and, California common law.

b. Whether Homejoy's uniform right to control requires that the Cleaners be classified as employees under California Law;

c. Whether the Cleaners are engaged in a distinct occupation or business from Homejoy;

d. Whether the skills required for the cleaning jobs support employee status;

e. Whether the Cleaners' work is part of Homejoy's regular business;

f. Whether Homejoy's failure to pay Class Members overtime wages violates Labor Code §§ 510, 1194 and Wage Orders 5-2001, 15-2001;

g. Whether Homejoy's failure to pay Class Members an amount equal to or greater than the minimum wage for all hours worked violates Labor Code §§ 1194, 1197, 1197.1, and Wage Orders 5-2001, 15-2001;

h. Whether Homejoy's failure to pay all wages twice each calendar month violates California Labor Code § 204(a);

i. Whether Homejoy's failure to provide meal periods to Class Members violates Labor Code §§ 226.7, 512 and Wage Orders 5-2001, 15-2001;

j. Whether Homejoy's failure to provide paid rest periods to Class Members violates Labor Code § 226.7 and Wage Orders 5-2001, 15-2001;

k. Whether Homejoy's failure to provide formerly employed Class Members with all wages due upon separation violates Labor Code §§ 201-203;

l. Whether Homejoy's failure to fully reimburse Class Members for their employment-related expenses violates Labor Code § 2802;

m. Whether Homejoy's failure to provide Class Members with itemized statements of wages and hours worked violates Labor Code § 226; and,

n. Whether Homejoy's various violations of the Labor Code serve as predicate violations of the UCL.

74. Common questions of law and/or fact predominate over questions that affect only individual Class Members. Plaintiff's claims are typical of those belonging to the members of the Class they seek to represent, and Plaintiff can adequately represent the Class she seeks to represent.

## FIRST CAUSE OF ACTION

**Failure to Pay Overtime Wages**

**[Cal. Labor Code §§ 204, 510, 1194, and I.W.C. Wage Orders 5-2001 and 15-2001]**

75. Plaintiff re-alleges each and every paragraph of this Complaint as though fully set forth.

76. Labor Code § 510 and the "Hours & Days of Work" Section of the Wage Orders entitles non-exempt employees to one and one-half times their hourly pay for any and all hours worked in excess of eight hours in any work day, for the first eight hours worked on the seventh consecutive day of work in a work week, and for any work in excess of forty hours in any one work week. Employees are entitled to the times their hourly pay for any and all hours worked in excess of 12 hours in any work day and in excess of 8 hours on the 7th consecutive work day.

77. Plaintiff and Class Members regularly worked in excess of eight hours per day and/or forty hours per week without overtime compensation.

78. By failing to pay overtime compensation to Plaintiff and Class Members, Homejoy violated and continues to violate Labor Code §§ 204, 510 and 1194 and Wage Orders 5-2001, 15-2001.

79. As a result of Homejoy's unlawful acts, Plaintiff and Class Members have been deprived of overtime compensation in an amount to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, attorneys' fees and costs, under Labor Code § 1194.

80. Plaintiff, on behalf of herself and Class Members, also requests further relief as described below.

## SECOND CAUSE OF ACTION
### Failure to Pay Minimum Wage
### [Cal. Labor Code §§ 1194, 1197, 1197.1 and I.W.C. Wage Orders No. 5-2001 and 15-2001]

81. Plaintiff re-alleges each and every paragraph of this Complaint as though fully set forth.

82. California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Orders 5-2001, 15-2001 entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation.

83. Homejoy did not and does not compensate Homejoy Cleaners for time spent driving between jobs during the work day, among other Homejoy tasks. Homejoy only paid its Cleaners for time spent at each job site.

84. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Orders 5-2001, 15-2001 for failure to pay minimum wage, Homejoy is liable for civil penalties pursuant to California Labor Code §§ 558 and 1197.1.

## THIRD CAUSE OF ACTION
### Failure to Reimburse for Business Expenses
### [California Labor Code § 2802]

85. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

86. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

87. Plaintiff and Class Members have incurred reasonable and necessary expenses in the course of completing their job duties for Homejoy, which were not reimbursed by Homejoy. These expenses include but are not limited to wear and tear on personal vehicles used to transport them between cleaning jobs, fuel for those same personal vehicles, tolls, public transportation expenses, parking personal car insurance coverage, purchasing a cellular phone, monthly cellular phone voice and data plans, public transportation expenses, tolls and cleaning supplies.

88. Plaintiff and Class Members are entitled to reimbursement for these necessary expenditures, plus interest and attorneys' fees and costs, under Labor Code § 2802.

89. Plaintiff, on behalf of herself and Class Members, also requests relief as described below.

## FOURTH CAUSE OF ACTION
### Failure to Provide Mandated Meal Periods
### [California Labor Code §§ 226.7, 512, and I.W.C. Wage Orders 5-2001, 15-2001]

90. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

91. Homejoy failed to provide meal breaks as required by Labor Code §§ 226.7, 512 and Wage Orders 5-2001, 15-2001.

92. Plaintiff and Class Members have worked in excess of five hours and at times ten hours a day without being provided at least half hour meal periods in which they were relieved of their duties, as required by Labor Code §§ 226.7 and 512 and Wage Order 5-2001. *See Brinker Restaurant*

*Corp., et al. v. Superior Court* (2012) 53 Cal. 4th 1004, 1040-41 ("The employer satisfies this obligation if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30–minute break, and does not impede or discourage them from doing so . . . [A] first meal period [is required] no later than the end of an employee's fifth hour of work, and a second meal period [is required] no later than the end of an employee's 10th hour of work.").

93. Because Homejoy failed to provide proper meal periods, it is liable to Plaintiff and Class Members for one hour of additional pay at the regular rate of compensation for each work day that the proper meal periods were not provided, pursuant to Labor Code §§ 226.7 and 512 and Wage Orders 5-2001, 15-2001, as well as interest thereon, plus reasonable attorneys' fees and costs of suit pursuant to Civil Procedure Code § 1021.5.

94. Plaintiff, on behalf of herself and Class Members, also requests further relief as described below.

## FIFTH CAUSE OF ACTION
**Failure to Provide Mandated Rest Periods**
**[California Labor Code § 226.7 and I.W.C. Wage Orders 5-2001, 15-2001]**

95. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

96. Defendant has failed to provide the rest periods that are required by Wage Orders 5-2001, 15-2001. *See Brinker*, 53 Cal. 4th 1004 at 1029 ("Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.").

97. Because Homejoy failed to provide proper rest periods, it is liable to Plaintiff and Class Members for one hour of additional pay at the regular rate of compensation for each workday that the proper rest periods were not provided, pursuant to Labor Code § 226.7 and Wage Orders 5-2001, 15-2001a, as well as interest thereon, plus reasonable attorneys' fees and costs of suit pursuant to Civil Procedure Code § 1021.5.

98. Plaintiff, on behalf of herself and Class Members, also requests relief as described below.

## SIXTH CAUSE OF ACTION
**Failure to Furnish Timely and Accurate Itemized Wage Statements**
**[California Labor Code §§ 226]**

99. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

100. Labor Code § 226 requires an employer to furnish its employees with an accurate itemized statement in writing showing, among other things: (1) all applicable hourly rates in effect during each respective pay period and the corresponding number of hours worked by each respective individual; (2) total hours worked by each respective individual; (3) gross wages earned; (4) net wages earned; (5) all deductions; (6) inclusive dates of the period for which the employee is paid; (7) the name of the employee and an employee identification or social security number; and, (8) the name and address of the legal entity that is the employer.

101. In violation of Labor Code § 226(a), Homejoy did not provide Plaintiff or Class Members with accurate itemized wage statements in writing showing: (1) all applicable hourly rates in effect during each respective pay period and the corresponding number of hours worked by each respective individual; (2) number of hours worked; (3) gross wages earned; (4) net wages earned; (5) all deductions; (6) inclusive dates of the period for which the employee is paid; (7) the employee identification or social security number; and, (8) the address of the legal entity that is the employer.

102. As a result of Homejoy's failure to provide accurate itemized wages statements, Plaintiff and Class Members suffered actual damages and harm by being unable to determine their applicable hourly rate or the amount of overtime worked each pay period, which prevented them from becoming aware of these violations and asserting their statutory protections under California law.

103. Homejoy has knowingly and intentionally failed to comply with Labor Code § 226(a) on each and every wage statement provided to Plaintiff and Class and Subclass Members.

104. Pursuant to Labor Code § 226(e), Plaintiff and Class Members are entitled to recover the greater of all actual damages or fifty dollars ($50.00) for the initial pay period in which a violation occurs and one hundred dollars ($100.00) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000.00).

105. Plaintiff and Class Members are entitled to an award of costs and reasonable attorneys' fees under Labor Code § 226(h).

106. Plaintiff, on behalf of herself and Class Members, also requests relief as described below.

## SEVENTH CAUSE OF ACTION
**Failure to Pay Compensation Due Upon Termination/Waiting Time Penalties**
**[Cal. Labor Code §§ 201-203]**

107. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

108. California Labor Code §§ 201 and 202 require Homejoy to pay all compensation due and owing to former Cleaners immediately upon discharge or within seventy-two hours of their termination of employment. California Labor Code § 203 provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for such "waiting time" penalties in the form of continued compensation up to thirty workdays.

109. Homejoy willfully failed to pay Plaintiff and Class Members who are no longer employed by Homejoy compensation due upon termination as required by California Labor Code §§ 201 and 202. As a result, Homejoy is liable to Plaintiff and former employee Class Members waiting time penalties provided under California Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

110. Plaintiff, on behalf of herself self and Class Members, also requests relief as described below.

## EIGHTH CAUSE OF ACTION
**Violation of the California Investigative Consumer Agencies Act for Failure to Provide Clear and Conspicuous Disclosure**
**[Cal. Civ. Code § 1786.16(a)(2)(B)]**

111. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

112. Homejoy willfully violated California Civil Code § 1786.16(a)(2)(B) because it failed to provide to Plaintiff a clear and conspicuous disclosure in writing that contained the information listed in California Code of Civil Procedure § 1786.16(a)(2)(B)(i), (iii), (iv), (v), and (vi).

113. Homejoy willfully failed to provide the information described in California Civil Code § 1786.16(a)(2)(B)(i), (iii), (iv), (v), and (vi).

114. Plaintiff seeks statutory damages for this violation pursuant to California Civil Code § 1786.16(a)(2)(B).

115. Plaintiff seeks punitive damages for this violation pursuant to California Civil Code § 1786.50(b).

## NINTH CAUSE OF ACTION
**Violation of the California Investigative Consumer Reporting Agencies Act**
**[Cal. Civ. Code § 1786.16(b)]**

116. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

117. Homejoy willfully violated California Civil Code § 1786.16(b)(1) because it failed to provide to Plaintiff, by means of a box to check on a written form, for example, the opportunity to request and receive a copy of the consumer background report obtained for Cleaners.

118. Plaintiff seeks statutory damages for this violation pursuant to California Civil Code § 1786.16(a)(2)(B).

119. Plaintiff seeks punitive damages for this violation pursuant to California Civil Code § 1786.50(b).

## TENTH CAUSE OF ACTION
**Unfair Business Practices in Violation of California**
**[Bus. & Prof. Code §§ 17200 *et seq.*]**

120. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

121. Plaintiff brings this cause of action individually and as a representative of all others subject to Homejoy's unlawful acts and practices.

122. Business and Professions Code § 17200 prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business act or practice.

123. Business and Professions Code § 17204 allows "any person who has suffered injury in fact and has lost money or property" to prosecute a civil action for violation of the Unfair Competition Law.

124. Homejoy has committed unlawful, unfair, and/or fraudulent business acts and practices as defined by Business and Professions Code § 17200 by failing to pay overtime wages, to provide meal and rest breaks, to pay wages due at the time of separation, to furnish timely and accurate wage statements, and to reimburse business expenses in violation of state law.

125. The above-described unlawful actions of Homejoy constitute false, unfair, fraudulent and/or deceptive business practices, within the meaning of Business and Professions Code § 17200, *et seq.*

126. As a result of their unlawful acts, Homejoy has reaped and continues to reap unfair benefits and illegal profits at the expense of Plaintiff, and the Class she seeks to represent. Homejoy should be enjoined from this activity, caused to specifically perform its obligations, and made to disgorge these ill-gotten gains and pay restitution to Plaintiff and the members of the Class including, but not limited to, restitution of all unpaid wages, plus interest, as well as attorneys' fees and costs.

127. Plaintiff, on behalf of herself and Class Members, also requests relief as described below.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the proposed Class, prays for judgment against Defendants as follows:

A. Certification of Plaintiff's claims as a class action, pursuant to Cal. Code of Civ. Pro. Section 382, on behalf of the proposed class;

B. Class notice to all Cleaners in California who worked for Homejoy from four years prior to the filing of the original Complaint through the trial of this action;

C. That the Court declare that Homejoy's policies and/or practices of misclassifying Plaintiff and Class Members as independent contractors violate California law;

D. That the Court declare that Homejoy's policies and/or practices of failing to pay overtime wages to Plaintiff and Class Members violates California Labor Code §§ 510, 1194 and Wage Orders No. 5-2001 and 15-2001 as to Plaintiff and the Class Members;

E. That the Court declare that Homejoy's policies and/or practices of failing to pay an amount equal to or greater than minimum wage for all hours worked to Plaintiff and Class Members violates §§ 1194, 1197, 1197.1 and Wage Orders No. 5-2001 and 15-2001 as to Plaintiff and the Class Members

F. That the Court declare that Homejoy's policies and/or practices of failing to enforce maximum hours of work to Plaintiff and Class Members violates California Labor Code §§ 1198 as to Plaintiff and the Class Members;

G. That the Court declare that Homejoy's failure to provide meal periods violates California Labor Code §§ 226.7 and 512, and Wage Orders 5-2001 and 15-2001, by failing to provide them a meal period of at least one half hour in which they were relieved of all duties for every five hours of work;

H. That the Court declare that Homejoy's failure to provide rest periods violates California Labor Code § 226.7 and Wage Orders 5-2001, 15-2001 by failing to provide them a rest period of at least ten minutes for every four hours of work or major portion thereof;

I. That the Court declare that, as to former employee Class Members, Homejoy has violated California Labor Code §§ 201-203 for willful failure to pay compensation at the time of termination of employment, resulting in unpaid waiting time penalties;

J. That the Court declare that Homejoy's failure to reimburse all business expenses incurred by Cleaners in the discharge of their duties as employees of Homejoy violates California Labor Code § 2802;

K. That the Court declare that Defendants' failure to furnish timely and accurate wage statements violates California Labor Code § 226;

L. That the Court declare that Homejoy's above-mentioned policies and/or practices violate the UCL (Cal. Bus. & Prof. Code §§ 17200-17208) and Labor Code § 1199;

M. An order preliminarily and permanently enjoining Homejoy from engaging in the practices challenged herein;

N. An award to Plaintiff and Class Members of damages in the amount of unpaid overtime compensation, interest, and penalties subject to proof at trial;

O. An award to Plaintiff and Class Members of damages in the amount of unpaid minimum wage compensation, interest, and penalties subject to proof at trial;

P. An award to Plaintiff and Class Members of damages in the amount of unpaid unreimbursed business expenses, and interest thereon, subject to proof at trial;

Q. An award to Plaintiff and the Class Members of one (1) hour of additional pay at the regular rate of compensation for each workday that meal periods were not provided, pursuant to California Labor Code § 226.7 and Wage Orders 5-2001(11), 15-2001(11) and interest thereon;

R. An award to Plaintiff and Class Members of one (1) hour of additional pay at the regular rate of compensation for each workday that rest periods were not provided, pursuant to California Labor Code § 226.7 and Wage Orders 5-2001(12), 15-2001(12) and interest thereon;

S. An award of damages to Plaintiff and the Class Members for Homejoy's failure to provide accurate itemized wage statements, pursuant to California Labor Code § 226(a);

T. An award of payments due to Plaintiff and Class Members who have left Homejoy's employ, as waiting time penalties, pursuant to California Labor Code § 203;

U. Interest accrued to date under the California Labor Code, including under Sections 226.7, 510, and 2802;

V. An award of actual or statutory damages to Plaintiff pursuant to California Civil Code § 1786.50(a) in an amount subject to proof at trial;

W. An award of punitive damages to Plaintiff pursuant to California Civil Code § 1786.50(b);

X. For an order that Homejoy make restitution to Plaintiff and Class Members for Homejoy due to their unlawful business practices as described herein pursuant to California Business and Professions Code §§ 17200-17205 and California Labor Code § 1199;

Y. An award to Class Representative Plaintiff and the Class Members of reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code § 1021.5, California Civil Code § 1786.50(a)(2), California Labor Code §§ 226, 226.7, 1194 and/or other applicable law; and,

Z. Such other and further relief that the Court may deem just and proper.

Dated: March 16, 2015

Respectfully submitted,

GOLDSTEIN, BORGEN, DARDARIAN & HO

Byron Goldstein

Attorney for Plaintiff