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12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

<p>13 LILIANA SOLIS, on behalf of herself, the 14 general public and as an "aggrieved employee") 15 under the California Labor Code Private) 16 Attorneys General Act, 17 18 Plaintiff, 19 v. 20 21 THE REGIS CORPORATION and each of) 22 their subsidiaries doing business in California) 23 under such names as Supercuts, MasterCuts,) 24 Regis Salons, Trade Secret, SmartStyle,) 25 Carlton Hair International, Mia & Maxx Hair) 26 Studio, Hair Crafters, Great Expectations, We) 27 Care Hair, HairMasters, Vidal Sassoon, and) 28 DOES 1-50, 29 30 Defendants.</p>	<p>) Case No.: C 05-03039 CRB)) CLASS, REPRESENTATIVE AND) PRIVATE ATTORNEY GENERAL ACTION))) PLAINTIFF'S THIRD AMENDED) COMPLAINT FOR IMPROPER OVERTIME) COMPENSATION RATE, FOR CHECKS) ISSUED BY AN OUT OF STATE BANK) FOR PRESENTATION AT NO COST (CAL.) LC 212), AND FOR FAILURE TO) DISCLOSE PIECE RATE AND/OR) ALTERNATIVE PAY PLAN IN WRITING) AND/OR ON CHECK STUB (CAL. LC. 226))) CAL. BUS. & PROF. CODE § 17200 and CAL.) LAB. CODE §§1194, 1198, 203, 212, 226 and) 351))</p>
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31 Comes now Plaintiff Liliana Solis ("Plaintiff") on behalf of herself, all others similarly
32 situated, the general public and all aggrieved employees and alleges:
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1 **JURISDICTION AND VENUE**

2 1. This case was removed from the Superior Court of the State of California.

3 2. The Superior Court had jurisdiction over the claims alleged herein pursuant to Cal. Bus.
4 & Prof. Code § 17200, Cal. Lab. Code §§1194, 1198, 203, 212, 226 and 351.

5 3. Pursuant to California Labor Code § 2699.3(a)(1), Plaintiff has notified the
6 California Labor & Workforce Development Agency, by certified mail, of the allegations
7 contained in this complaint and the California Labor & Workforce Development Agency has
8 declined to investigate the allegations contained herein.
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11 **PARTIES AND BACKGROUND**

12 4. Defendant Regis Corporation (hereinafter referred to as "Regis") is a Minnesota
13 Corporation doing business in California under such names as Supercuts, MasterCuts, Regis
14 Salons, Trade Secret, SmartStyle, Carlton Hair International, Mia & Maxx Hair Studio, Hair
15 Crafters, Great Expectations, We Care Hair, HairMasters, and Vidal Sassoon. Defendant is a
16 for profit corporation that, according to its own website, is the market leader in the hair salon
17 industry and is a multibillion dollar enterprise and the world's largest company in the salon
18 industry with over 10,000 salons in North America.
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20 5. Defendant Regis tells the United States treasury that Regis is the agent for
21 Supercuts Corporate Stores, Inc. Although not registered to do business in California,
22 Supercuts Corporate Stores, Inc., is the entity that makes payroll on all the employees who work
23 in Supercuts stores in California and nationwide.
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25 6. At all times relevant herein, Defendant Regis is financially responsible for all
26 acts and omissions of Supercuts Corporate Stores, Inc.
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1 7. All payroll checks from employees who work at Supercuts stores owned by
2 Regis are paid out of the same Regis bank account as all other employees employed by Regis
3 and other all defendants herein. According to Regis, the only difference between a "Regis"
4 payroll check and a Supercuts payroll check is the paper stock used to print the check on,
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6 8. After the initiation of this lawsuit, and as a direct result thereof, Regis made it
7 possible for its payroll checks, including the payroll checks issued on Supercuts paper stock, to
8 be redeemable in California without discount or waiting period. This act was an admission by
9 the Defendants that they had heretofore violated California law.
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11 9. Plaintiff and all others similarly situated are, and at all relevant times were
12 employed by Defendants, or some of them, to perform cosmetic services, including but not
13 limited to, hair cutting and hair styling.

14 10. In addition, employees who work in Supercuts salons are paid based upon a
15 matrix system, the details of which are specifically not explained nor agreed to by the
16 employees. The matrix system is a variation of a fluctuating work week pay scheme because it
17 pays each employee on a piece rate but less per piece as the total production increases based
18 upon a two week average. This pay scheme is unlawful under California law because it does
19 not pay these employees the correct overtime compensation as required by applicable state law,
20 because the overtime piece rate decreases per piece for hours worked more than forty (40) hours
21 a week and/or more than eight (8) hours a day, and because it averages piece rates over a 15 day
22 period rather than paying the overtime rate per day in effect on that day or by the week. The
23 regular rate upon which the overtime rate is based is not calculated correctly under California
24 law. Defendant Supercuts Corporate Stores, Inc. and/or other defendants herein have failed to
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1 pay over 2000 employees who work as hourly production workers in Supercuts stores in
2 California the correct overtime rate in violation of Labor Code § 1194.

3 11. Defendant Regis, as a person and agent for a person (Supercuts Corporate Stores,
4 Inc.) pays Plaintiff and all others similarly situated with checks issued by an out of state bank
5 with no in state address for presentation and no provision for negotiating such pay check in
6 California at full face value, with no discount and at no cost without delay which is a violation
7 of Labor Code Section 212. See Exhibit A attached hereto, which is a true and correct copy of a
8 paycheck issued by Defendant's bank, La Salle National Bank in Chicago.
9

10 12. Defendants fail to disclose the piece rate and /or exact hourly rate of
11 compensation for varying compensation rates, or the details of the alternative compensation
12 plan that individual workers earn on their check stubs or semi monthly in violation of Labor
13 Code Section 226 and Section 7 (6) of Wage Order 2, 8 CRR 11020(7)(a)(6).
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15 13. Defendants also maintain all employment and payroll records for California employees
16 out of the state of California in violation of Labor Code Section 226.
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18 14. Unless otherwise alleged in this complaint, Plaintiff is informed and believes,
19 and on the basis of that information and belief alleges, that at all times mentioned in this
20 Complaint, Defendant was the agent of and joint employers with their Co-Defendants, and in
21 doing the things alleged in this Complaint were acting within the course and scope of that
22 agency and co-employment.
23

24 15. Each Defendant herein is the agent of all other Defendants herein, although the
25 class for overtime purposes is limited to hourly employees who work at Supercuts locations in
26 California, irrespective of which Defendant their employer may actually be but excluding any
27 bone fide franchise not owned in whole or in part by Regis Corporation.
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CLASS ACTION ALLEGATIONS

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2 16. Plaintiff brings this action on her own behalf, on behalf of the class of all persons
3 similarly situated, the general public and all aggrieved employees employed by Defendant.
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5 17. During all times relevant herein, Defendants incorrectly classified the jobs
6 performed by class members as exempt employees, not entitled to overtime compensation under
7 law.

8 18. The class consists of at least one hundred (100) employees, and likely more,
9 which is so numerous that the joinder of each member of the class is impracticable.
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11 19. Plaintiff brings action on behalf of two (2) classes and/or subclass that are
12 defined as follows:

13 Class A or "The Matrix Overtime Class" consists of all hourly employees
14 employed at Supercuts store locations, who were paid with payroll checks indicating that they
15 were employees of Supercuts Corporate Stores, Inc, and who worked at company owned stores
16 located within the state of California within four years immediately preceding the filing of the
17 complaint in this action until the date of judgment after trial and who were paid overtime
18 compensation based upon the so-called matrix system which decreased the piece rate per task as
19 the number of completed tasks were completed and which calculated the overtime rate on the
20 basis of average piece rate over a period of time longer than a day and/or a workweek al in
21 violation of Labor Code 510 and the overtime calculation requirements of California law.
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23 Class B or "The Check Cashing Class" consists of all employees employed
24 within the state of California within one year immediately preceding the filing of the complaint
25 in this action until the date of judgment after trial or until the practice complained of herein
26 ceased, whichever was sooner, who were paid by Defendant Regis Corporation and/or
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1 Supercuts Corporate Stores Inc, with checks, script or other forms of indebtedness (other than
2 by direct deposit into the employee's own bank account) which checks, script or other form of
3 indebtedness did not contain on the face of the instrument or in a separate piece of paper
4 included in the pay envelope at the time of issuance of the instrument, the name and address of
5 a place within the state of California where the instrument could be negotiated for cash (lawful
6 legal tender) immediately without discount, charge or delay in violation of California Labor
7 Code Section 212.
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9 20. There is a well-defined community of interest in the questions of law and fact
10 affecting the class Plaintiff seeks to represent. The class members' claims against Defendants
11 involve questions of common or general interest, in that their claims are based on Defendants'
12 implementation and utilization of policy pursuant to which all members of the class were denied
13 payment of the correct overtime compensation rate during the years in question, were subject to
14 paychecks issued by Defendant by an out of state bank with no in state address for presentation
15 and were not given a record of their piece rate as required by law. These questions are such that
16 proof of a statement of facts common to the members of the class will entitle each member of
17 the class to the relief requested in this Complaint.
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19 21. Plaintiff will fairly and adequately represent the interests of the class, because
20 the Plaintiff is a member of the class and the claim of Plaintiff is typical of those in the class.
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22 22. Plaintiff requests permission to amend the complaint to include additional class
23 representatives if Plaintiff is deemed not to be an adequate representative of the class.
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1 **FIRST CAUSE OF ACTION ON BEHALF OF EMPLOYEES WHO ARE PAID BY**
2 **SUPERCUTS CORPORATE STORES, INC ON THE MATRIX PAY PLAN**
3 **Failure to Pay Proper Overtime Compensation**
4 **(Cal. Labor Code §§510, 515(d), 1194, 1198 & 2699, B&P Code 17200)**

5 23. Defendants employed Plaintiff and all members of the Plaintiff class under a
6 contract of employment that was partly written, partly oral, and partly implied.

7 24. At all relevant times, Defendant Supercuts Corporate Stores, Inc. maintained an
8 alternative pay plan called the Matrix Pay Plan. The Matrix plan was purposefully designed to
9 and did in fact decreased the hourly rate of compensation to individual Supercuts Corporate
10 Stores, Inc. employees the more hours they worked overtime if they failed to generate more
11 than the average hourly rate of revenue during non-overtime hours, and imposed an semi-
12 monthly overtime hourly rate based upon the individual revenue generated over a semi-monthly
13 time period rather than the daily or weekly period.

14 25. Plaintiff and all members of the Matrix Overtime Class were regularly required
15 to work in excess of eight hours (8) during the workday and in excess of forty (40) hours during
16 the workweek. Often, the additional hours were at less revenue generating potential than the
17 non-overtime hours worked. Therefore, the more the employees worked overtime, the less per
18 overtime hour they were paid, even though the total compensation increased slightly.

19 26. CAL. Lab. Code § 510 (a) states that :

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22 Any work in excess of eight hours in one workday and any work in
23 excess of 40 hours in any one workweek and the first eight hours worked
24 on the seventh day of work in any one workweek shall be compensated at
25 the rate of no less than one and one-half times the regular rate of pay for
26 an employee. Any work in excess of 12 hours in one day shall be
27 compensated at the rate of no less than twice the regular rate of pay for an
28 employee. In addition, any work in excess of eight hours on any seventh
day of a workweek shall be compensated at the rate of no less than twice
the regular rate of pay of an employee. Nothing in this section requires
an employer to combine more than one rate of overtime compensation in

1 order to calculate the amount to be paid to an employee for any hour of
2 overtime work.

3 27. CAL. LAB. CODE 515(d) states that "For the purpose of computing the overtime
4 rate of compensation required to be paid to a nonexempt full-time salaried employee, the
5 employee's regular hourly rate shall be 1/40th of the employee's weekly salary.

6 28. Labor Code Section 204 requires the payment of wages, including overtime, at
7 least twice a month.

8 29. CAL. LAB. CODE § 558 provides that:

9 Any employer or other person acting on behalf of an employer
10 who violates, or causes to be violated, a section of this chapter or
11 any provision regulating hours and days of work in any order of
12 the Industrial Welfare Commission shall be subject to a civil
13 penalty as follows: (1) For any initial violation, fifty dollars (\$50)
14 for each underpaid employee for each pay period for which the
15 employee was underpaid in addition to an amount sufficient to
16 recover underpaid wages. (2) For each subsequent violation, one
17 hundred dollars (\$100) for each underpaid employee for each pay
18 period for which the employee was underpaid in addition to an
19 amount sufficient to recover underpaid wages. (3) Wages
20 recovered pursuant to this section shall be paid to the affected
21 employee.

22 30. California law prohibits averaging overtime hourly rate from one day to the next,
23 or for any period of time more than forty work hours.

24 31. California law prohibits the payment of overtime based upon a piece rate or other
25 pay plan which decreases the hourly rate of compensation the more overtime hours worked.

26 32. Despite California law which prohibits a decreasing rate of pay for increased
27 hours worked over eight a day or forty per week, Defendants' matrix system is based upon a
28 semi-monthly average compensation rate, and decreases the hourly pay as the hours worked in
excess of 8 per day or 40 per week increases.

1 33. Through the above-described Matrix Plan, Defendant willfully did not pay
2 Plaintiff and Plaintiff class members who worked as hourly employees in California Supercuts
3 locations (except locations of bone fide franchisees) the correct overtime rate for hours worked
4 in excess of eight per day and /or 40 per week..
5

6 34. Defendant's conduct described above in this Complaint violates the provisions of
7 CAL. LAB. CODE § 1198.

8 35. California Labor Code Section 1194(a) states Notwithstanding any agreement to
9 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
10 overtime compensation applicable to the employee is entitled to recover in a civil action the
11 unpaid balance of the full amount of this minimum wage or overtime compensation, including
12 interest thereon, reasonable attorney's fees, and costs of suit.
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14 36. California Labor Code Section 2699.5 states that "The provisions of subdivision
15 (a) of Section 2699.3 shall apply to any alleged violation of the following provisions: . . .204,. .
16 . .510 [and/] or 1198" of the California Labor Code.
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18 37. Therefore, pursuant to Business & Professions Code Section 17200, Plaintiff
19 demands of Defendant Supercuts Corporate Stores, Inc, full restitution of all overtime pay owed
20 to each member of the Matrix Overtime Class for four years from the filing of the initial
21 complaint in this case until the date of judgment after trial herein.
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23 38. In addition, pursuant to California Labor Code Section 1194(a) Plaintiff demands
24 of Defendant Supercuts Corporate Stores, Inc, as damages under the Labor Code all overtime
25 pay owed to each a member of the Matrix Overtime Class for three years from the filing of the
26 initial complaint in this case until the date of judgment after trial herein.
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1 39. And, having met all procedural requirements under Labor Code 2699.3 et seq,
2 Plaintiff demands of Defendant Supercuts Corporate Stores, Inc. penalties as provided by
3 Labor Code Section 2699(f)(2), to wit:” . . .one hundred dollars (\$100) for each aggrieved
4 employee [who is a member of the Matrix Overtime Class] per pay period for the initial
5 violation and two hundred dollars (\$200) for each aggrieved employee [who is a member of the
6 Matrix Overtime Class] per pay period for each subsequent violation” from one year
7 immediately preceding the filing of the initial complaint in this case until the date of judgment
8 after trial herein.
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11 40. In the alternative to Labor Code Section 2699(f)(2), Plaintiff demands of
12 Defendant Supercuts Corporate Stores, Inc, the penalties specified in Labor Code 558, which
13 the Court in at footnote 15 in *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th
14 365 (2nd DCA 2005) said applied to claims of failure to pay overtime when due as specified by
15 Labor Code 204 from one year immediately preceding the filing of the initial complaint in this
16 case until the date of judgment after trial herein.
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18 **SECOND CAUSE OF ACTION ON BEHALF OF EMPLOYEES WHO ARE PAID BY**
19 **SUPERCUTS CORPORATE STORES, INC ON THE MATRIX PAY PLAN**
20 **Willful Failure to Disclose Rate per Piece and/or Alternative Pay Plan**
21 **(California Labor Code §226 and 8 CRR 11020(7)(a)(6))**

22 41. Plaintiff hereby incorporates each and every allegation contained above, and
23 realleges said allegations as if fully set forth herein.

24 42. At all relevant times, Defendant Supercuts Corporate Stores, Inc. maintained an
25 alternative pay plan called the Matrix Pay Plan. The Matrix plan was purposefully designed to
26 and did in fact decreased the hourly rate of compensation to individual Supercuts Corporate
27 Stores, Inc. employees the more hours they worked overtime if they failed to generate more
28 than the average hourly rate of revenue during non-overtime hours, and imposed an semi-

1 monthly overtime hourly rate based upon the individual revenue generated over a semi-monthly
2 time period rather than the daily or weekly period.

3 43. Plaintiff and all members of the Matrix Overtime Class were regularly required
4 to work in excess of eight hours (8) during the workday and in excess of forty (40) hours during
5 the workweek. Often, the additional hours were at less revenue generating potential than the
6 non-overtime hours worked. Therefore, the more the employees worked overtime, the less per
7 overtime hour they were paid, even though the total compensation increased slightly.

8 44. Defendant Supercuts Corporate Stores, Inc. did not provide its employees an
9 explanation of the piece rate and/or incentive plan formula known as the Matrix Plan.

10 45. Defendant Supercuts Corporate Stores, Inc. did not provide its employees an
11 accurate adequate itemized wage statement.

12 46. As person most knowledgeable and CEO of Supercuts, Vicki Langan stated, in
13 reference to not disclosing the pay rate to the employees, "That's intentional, that we don't show
14 or talk about the fact that the pay plan leverages itself as a person becomes more productive.
15 They see that they earn a higher hourly rate, but they don't see that it's a smaller percentage.
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19 47. Defendant's non-disclosure was intentional and willful.

20 48. California Labor Code 226(a) states, in relevant part, that:

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22 Every employer shall, semimonthly or at the time of each payment of
23 wages, furnish each of his or her employees, either as a detachable part of
24 the check, draft, or voucher paying the employee's wages, or separately
25 when wages are paid by personal check or cash an accurate itemized
26 statement in writing showing . . . (3) the number of piece-rate units
27 earned and any applicable piece rate if the employee is paid on a piece-
28 rate basis, . . . and (9) all applicable hourly rates in effect during the pay
period and the corresponding number of hours worked at each hourly rate
by the employee.

1 49. California Labor Code 226(e) further states:

2 An employee suffering injury as a result of a knowing and intentional
3 failure by an employer to comply with subdivision (a) is entitled to
4 recover the greater of all actual damages or fifty dollars (\$50) for the
5 initial pay period in which a violation occurs and one hundred dollars
6 (\$100) per employee for each violation in a subsequent pay period, not
exceeding an aggregate penalty of four thousand dollars (\$4,000), and is
entitled to an award of costs and reasonable attorney's fees.

7 50. In its May 17, 2002 opinion letter to Attorney Richard Simmons, the California
8 Division of Labor Standards Enforcement wrote at 2002 Cal. DLSE LEXIS 35, 14-15 (Cal.
9 DLSE 2002):

10 The maximum "aggregate penalty" that the statute now references is one
11 that, based on the plain language of the statute, is owed to "any
12 employee." It is not a maximum for all of the employer's employees.
13 Indeed, the latter interpretation flies in the face of AB 2509's legislative
14 history, and in particular, the final Senate bill analysis which explains
15 that the bill "entitles an aggrieved employee . . . to the greater of actual
16 damages or penal damages . . . up to \$ 4,000." To interpret this statute as
17 establishing a \$ 4,000 maximum penalty for an employer, rather than a \$
18 4,000 maximum penalty per aggrieved employee, would fail to provide
any sort of meaningful compensation to the employees of a large
employer. Such an interpretation would fail to effectuate the purpose of
this law.

19 51. California Labor Code 226 (g) further states: "An employee may also bring an
20 action for injunctive relief to ensure compliance with this section, and is entitled to an award of
21 costs and reasonable attorney's fees."

22 52. The last sentence of Labor Code 218 states: Nothing in this article shall limit the
23 right of any wage claimant to sue directly or through an assignee for any wages or penalty due
24 him under this article.

25 53. Wage Order 2 of the Industrial Wage Commission of the State of California, 8
26 CCR 11020, applies to Defendant Supercuts Corporate Stores, Inc. because it is engaged in the
27 "Personal Service Industry" which is defined as "any industry, business, or establishment
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1 operated for the purpose of rendering, directly or indirectly, any service, operation, or process
2 used or useful in the care, cleansing, or beautification of the body, skin, nails, or hair, or in the
3 enhancement of personal appearance or health, including but not limited to beauty salons,
4 schools of beauty culture offering beauty care to the public for a fee, barber shops, bath and
5 massage parlors, physical conditioning, weight control salons, health clubs, and mortuaries.”

7 54. Section 7 (6) of Wage Order 2 states that the “When a piece rate or incentive
8 plan is in operation, piece rates or an explanation of the incentive plan formula shall be
9 provided to employees. The employer shall maintain an accurate production record.”
10

11 55. Simply providing the gross amount of wages and the hours worked is not
12 sufficient to satisfy the provisions of Section 7 (6) of Wage Order 2 and / or Labor Code
13 Section 226(a)(9) which requires the employer to state in writing, “all applicable hourly rates in
14 effect during the pay period and the corresponding number of hours worked at each hourly rate
15 by the employee.” *e.g. Cicairos v. Summit Logistics, Inc.*, 133 Cal. App. 4th 949, 960 (3rd
16 DCA 2005).
17

18 56. By the conduct described above, Defendant has violated Labor Code Section
19 226.
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21 57. California Labor Code § 226.3 provides that

22 Any employer who violates subdivision (a) of Section 226 shall be
23 subject to a civil penalty in the amount of two hundred fifty dollars (\$
24 250) per employee per violation in an initial citation and one thousand
25 dollars (\$ 1,000) per employee for each violation in a subsequent citation,
26 for which the employer fails to provide the employee a wage deduction
27 statement or fails to keep the records required in subdivision (a) of
28 Section 226. The civil penalties provided for in this section are in
addition to any other penalty provided by law. In enforcing this section,
the Labor Commissioner shall take into consideration whether the
violation was inadvertent, and in his or her discretion, may decide not to
penalize an employer for a first violation when that violation was due to a
clerical error or inadvertent mistake.

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2 58. Labor Code §218 provides, in relevant part, "Nothing in this article shall limit
3 the right of any wage claimant to sue directly or through an assignee for any wages or penalty
4 due him under this article." The article containing Labor Code §218 also includes both Labor
5 Code §212 and §226.

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7 59. Where the employer has failed to keep records required by statute, the
8 consequences for such failure should fall on the employer, not the employee. In such a situation,
9 imprecise evidence by the employee can provide a sufficient basis for damages.

10 60. Had Defendant Supercuts Corporate Store, Inc. provided the employees who
11 were members of the Matrix Overtime Class an accurate itemized payroll records of their time
12 and hourly rates, employees would not have worked overtime hours during slow periods which
13 decreases their effective overtime hourly rate.

14
15 61. Therefore, Plaintiff and all members of the Matrix Overtime Class were injured
16 by such deliberate non-disclosures.

17 62. Therefore, Plaintiff demands of Defendant Supercuts Corporate Store, Inc. the
18 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
19 occurs and one hundred dollars (\$100) per employee who is a member of the Matrix Overtime
20 Class for each violation in a subsequent pay period, not exceeding an aggregate penalty of four
21 thousand dollars (\$4,000), for each employee who is a member of the Matrix Overtime Class
22 and who was paid wages without adequate itemized wage statement within three years
23 immediately preceding the filing of the initial complaint in this action until the date of judgment
24 after trial herein.

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27 63. In addition, Plaintiff demands of Defendant Supercuts Corporate Store, Inc two
28 hundred fifty dollars (\$ 250) per employee who is a member of the Matrix Overtime Class per

1 violation of Labor Code Section 226 and one thousand dollars (\$ 1,000) per employee who is a
2 member of the Matrix Overtime Class for each subsequent violation Labor Code Section 226,
3 each pay check issued being a separate violation of Labor Code 226.
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5 **THIRD CAUSE OF ACTION ON BEHALF OF ALL CALIFORNIA EMPLOYEES**
6 **WHO RECEIVED PAYROLL CHECKS ISSUED BY DEFENDANT REGIS EITHER IN**
7 **ITS OWN NAME OR AS AGENT FOR DEFENDANT SUPERCUTS CORPORATE**
8 **STORES, INC**

9 **Issuance of Out of State Paychecks**
10 **(California Labor Code § 212)**

11 64. Plaintiff hereby incorporates each and every allegation contained above, and
12 realleges said allegations as if fully set forth herein.

13 65. Defendant Regis Corporation either as an employer itself, or as agent for
14 Supercuts Corporate Stores Inc, issued checks, script or other forms of indebtedness (other
15 than by direct deposit into the employee's own bank account) to California employees who
16 were members of the Check Cashing Class, which checks, script or other form of
17 indebtedness did not contain on the face of the instrument or in a separate piece of paper
18 included in the pay envelope at the time of issuance of the instrument, the name and address
19 of a place within the state of California where the instrument could be negotiated for cash
20 (lawful legal tender) immediately without discount, charge or delay
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22 66. California Labor Code § 212 states:

23 (a) No person, or agent or officer thereof, shall issue in payment
24 of wages due, or to become due, or as an advance on wages to be
25 earned:

26 (1) Any order, check, draft, note, memorandum, or other
27 acknowledgment of indebtedness, unless it is negotiable and
28 payable in cash, on demand, without discount, at some established
place of business in the state, the name and address of which must
appear on the instrument, and at the time of its issuance and for a
reasonable time thereafter, which must be at least 30 days, the

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maker or drawer has sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment.

(2) Any scrip, coupon, cards, or other thing redeemable, in merchandise or purporting to be payable or redeemable otherwise than in money.

(b) Where an instrument mentioned in subdivision (a) is protested or dishonored, the notice or memorandum of protest or dishonor is admissible as proof of presentation, nonpayment and protest and is presumptive evidence of knowledge of insufficiency of funds or credit with the drawee.

(c) Notwithstanding paragraph (1) of subdivision (a), if the drawee is a bank, the bank's address need not appear on the instrument and, in that case, the instrument shall be negotiable and payable in cash, on demand, without discount, at any place of business of the drawee chosen by the person entitled to enforce the instrument.

67. The provisions of the section forbid any person to issue in payment of wages an instrument that is not (1) negotiable, (2) payable in cash, (3) on demand, (4) without discount, (5) at an established place of business in the State, (6) the name and address of which appears on the instrument, and (7) which place of business has been prepared, by the deposit of funds, the establishment of credit, or by some arrangement or understanding, to pay the money called for by the instrument. If any one of the seven requirements is missing, the issuance of the instrument is in violation of law.

68. By issuing out of state checks, Defendants withheld the time value of money (i.e. the float) from employees who must wait five to seven business days for an out of state check to clear.

69. Even if the employee chose to cash the check in another California bank or institution, banking regulations allow and/or require a longer holding period for checks issued on out of state bank accounts, even if that same bank has a local branch in the state.

70. In addition, Plaintiff has been required to pay fees to have her paychecks cashed.

1 71. By the conduct described above, Defendant has violated the provisions of Labor
2 Code Section 212.

3 72. Labor Code 218 provides, in relevant part, "Nothing in this article shall limit the
4 right of any wage claimant to sue directly or through an assignee for any wages or penalty due
5 him under this article."
6

7 73. California Labor Code Section 2699.5 states in relevant part that "The provisions
8 of subdivision (a) of Section 2699.3 shall apply to any alleged violation of the following
9 provisions: . . .212. . .
10

11 74. Having met all procedural requirements under Labor Code 2699.3 et seq,
12 Plaintiff demand penalties from Regis and/or Supercuts Corporate Stores, Inc, as provided by
13 Labor Code Section 2699(f)(2), to wit:" . . .one hundred dollars (\$100) for each aggrieved
14 employee [who was a members of the check cashing class] per pay period for the initial
15 violation and two hundred dollars (\$200) for each aggrieved employee [who was a members of
16 the check cashing class] per pay period for each subsequent violation" from one year
17 immediately preceding the filing of the initial complaint in this case until the date of judgment
18 after trial herein.
19

20 75. In the alternative to the penalties demanded Labor Code Section 2699(f)(2),
21 Plaintiff demands the penalties specified in Labor Code 225.5 to wit: "a) For any initial
22 violation, one hundred dollars (\$ 100) for each failure to pay each employee[who was a
23 members of the check cashing class]; (b) For each subsequent violation, or any willful or
24 intentional violation, two hundred dollars (\$ 200) for each failure to pay each employee[who
25 was a members of the check cashing class], plus 25 percent of the amount unlawfully withheld.
26
27
28

1 (i.e. the float and all check cashing fees) from one year immediately preceding the filing of the
2 initial complaint in this case until the date of judgment after trial herein.

3 **FOURTH CAUSE OF ACTION ON BEHALF OF EMPLOYEES WHO ARE PAID BY**
4 **SUPERCUTS CORPORATE STORES, INC ON THE MATRIX PAY PLAN.**

5 **Waiting Penalties**
6 **(CAL. LAB. CODE § 203)**

7 76. Plaintiff herein repeats and re-alleges each and every paragraph above as though
8 fully set forth herein.

9 77. CAL. LAB. CODE § 203 states, in part:

10 If an employer willfully fails to pay, without abatement or
11 reduction, in accordance with Sections 201, 201.5, 202, and 205.5,
12 any wages of an employee who is discharged or who quits, the
13 wages of the employee shall continue as a penalty from the due
14 date thereof at the same rate until paid or until an action therefor is
commenced; but the wages shall not continue for more than 30
days.

15 78. All class members of the Matrix Overtime Class who terminated employment
16 without being paid the proper overtime payments are entitled to 30 days of full pay as waiting
17 penalties.

18 79. Therefore, Plaintiff and class demand payment of waiting penalties for members
19 of the Matrix Overtime class who terminated employment without being paid the proper
20 overtime payments.
21

22 **FIFTH CAUSE OF ACTION AGAINST SUPERCUTS CORPORATE STORES, INC**
23 **Penalties for Not Paying Overtime at the Correct Rate**
24 **(Labor Code Private Attorneys General Act of 2004)**

25 80. Plaintiff herein repeats and re-alleges each and every paragraph above as though fully
26 set forth herein.

27 81. Cal. Lab. Code § 2699 (a), also known as the Labor Code Private Attorneys General Act
28 of 2004, states: ◦

1 Notwithstanding any other provision of law, any provision of this
2 code that provides for a civil penalty to be assessed and collected
3 by the Labor and Workforce Development Agency or any of its
4 departments, divisions, commissions, boards, agencies, or
5 employees, for a violation of this code, may, as an alternative, be
6 recovered through a civil action brought by an aggrieved employee
7 on behalf of himself or herself and other current or former
8 employees.

9 82. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code
10 Private Attorneys General Act of 2004 because she is a person who was employed by the
11 alleged violator and against whom one or more of the alleged violations was committed.

12 83. Plaintiff therefore brings this action on behalf of herself and other current and
13 former employees of Regis Corporation performing work as cosmetologist (hairstylists).

14 84. Cal. Lab. Code § 558 provides that:

15 Any employer or other person acting on behalf of an employer
16 who violates, or causes to be violated, a section of this chapter or
17 any provision regulating hours and days of work in any order of
18 the Industrial Welfare Commission shall be subject to a civil
19 penalty as follows: (1) For any initial violation, fifty dollars (\$50)
20 for each underpaid employee for each pay period for which the
21 employee was underpaid in addition to an amount sufficient to
22 recover underpaid wages. (2) For each subsequent violation, one
23 hundred dollars (\$100) for each underpaid employee for each pay
24 period for which the employee was underpaid in addition to an
25 amount sufficient to recover underpaid wages. (3) Wages
26 recovered pursuant to this section shall be paid to the affected
27 employee.

28 85. The term “this Chapter” in Cal. Lab. Code § 558 includes Cal. Lab. Code § 510.

86. Cal. Lab. Code § 558 (c) states that “The civil penalties provided for in this
section are in addition to any other civil or criminal penalty provided by law.”

87. Cal. Lab. Code § 1197.1 (a) states the civil penalty for violation of the overtime
provisions of the Orders of the California Industrial Wage Commission as follows:

1 Any employer or other person acting either individually or as an officer,
2 agent, or employee of another person, who pays or causes to be paid to
3 any employee a wage less than the minimum fixed by an order of the
4 commission shall be subject to a civil penalty as follows: (1) For any
5 initial violation that is intentionally committed, one hundred dollars
6 (\$100) for each underpaid employee for each pay period for which the
7 employee is underpaid. (2) For each subsequent violation for the same
8 specific offense, two hundred fifty dollars (\$250) for each underpaid
9 employee for each pay period for which the employee is underpaid
10 regardless of whether the initial violation is intentionally committed.

11 88. Cal. Lab. Code § 1197.1 (f) further states:

12 Any employee who prevails in any action shall be entitled to an award of
13 reasonable attorney's fees and costs. Nothing in this section shall operate
14 to limit an employee's right to pursue other remedies available under state
15 or federal law, either separately or concurrently with an action taken
16 under this section.

17 89. By the conduct described above, Defendant has violated the provisions of
18 Section 510 of the Labor Code and the Orders of the Industrial Welfare Commission relating to
19 the payment of overtime compensation.

20 90. Therefore, Plaintiff demands payment at the rate specified in Cal. Lab. Code §
21 558 plus the rate specified in Cal. Lab. Code § 1197.1 for all current or former employees
22 whom are due overtime payments.

23 WHEREFORE, Plaintiff demands judgment against Defendants as
24 hereinafter set forth.

- 25 1. Pursuant to Business & Professions Code Section 17200, Plaintiff
26 demands of Defendant Supercuts Corporate Stores, Inc, full
27 restitution of all overtime pay owed to each member of the Matrix
28 Overtime Class for four years from the filing of the initial
complaint in this case until the date of judgment after trial herein,
according to proof;
2. Pursuant to California Labor Code Section 1194(a) Plaintiff
demands of Defendant Supercuts Corporate Stores, Inc, as
damages under the Labor Code all overtime pay owed to each a
member of the Matrix Overtime Class for three years from the

1 filing of the initial complaint in this case until the date of judgment
2 after trial herein according to proof;

- 3 3. Plaintiff demands of Defendant Supercuts Corporate Stores, Inc.
4 penalties as provided by Labor Code Section 2699(f)(2), to wit:” .
5 . . one hundred dollars (\$100) for each aggrieved employee [who is
6 a member of the Matrix Overtime Class] per pay period for the
7 initial violation and two hundred dollars (\$200) for each aggrieved
8 employee [who is a member of the Matrix Overtime Class] per pay
9 period for each subsequent violation” from one year immediately
10 preceding the filing of the initial complaint in this case until the
11 date of judgment after trial herein.
- 12 4. In the alternative to Labor Code Section 2699(f)(2), Plaintiff
13 demands of Defendant Supercuts Corporate Stores, Inc, the
14 penalties specified in Labor Code 558, from one year immediately
15 preceding the filing of the initial complaint in this case until the
16 date of judgment after trial herein.
- 17 5. Therefore, Plaintiff demands of Defendant Supercuts Corporate
18 Store, Inc. the greater of all actual damages or fifty dollars (\$50)
19 for the initial pay period in which a violation occurs and one
20 hundred dollars (\$100) per employee who is a member of the
21 Matrix Overtime Class for each violation in a subsequent pay
22 period, not exceeding an aggregate penalty of four thousand dollars
23 (\$4,000), for each employee who is a member of the Matrix
24 Overtime Class and who was paid wages without adequate
25 itemized wage statement within three years immediately preceding
26 the filing of the initial complaint in this action until the date of
27 judgment after trial herein.
- 28 6. In addition, Plaintiff demands of Defendant Supercuts Corporate
Store, Inc two hundred fifty dollars (\$ 250) per employee who is a
member of the Matrix Overtime Class per violation of Labor Code
Section 226 and one thousand dollars (\$ 1,000) per employee who
is a member of the Matrix Overtime Class for each subsequent
violation Labor Code Section 226, each pay check issued being a
separate violation of Labor Code 226.
7. For interest on the unpaid balance of overtime compensation owed
to Plaintiff and Plaintiff class members at the statutory rate;
8. For restitution and penalties for issuance of out of state paychecks;
9. For payment of Civil Penalties pursuant to the Labor Code Private
Attorneys General Act of 2004 at the rate specified in Labor Code

