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23
24 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
25
26 **IN AND FOR THE COUNTY OF LOS ANGELES**
27

28 Coordination Proceeding
Special Title (Rule 1550(b))

) **Judicial Council Coordination Proceeding**
) **No. 4545**

19 WACKENHUT WAGE AND HOUR CASES

) *Assigned for all purposes to the*
) *Hon. William F. Highberger, Dept. 307*

20 Included cases:

) **CLASS ACTION**

21 Lubin vs. Wackenhut Corporation. et al.,
22 Los Angeles County Superior Court Case No.
23 BC326996

) **COORDINATED COMPLAINT**
) **AGAINST THE WACKENHUT**
) **CORPORATION FOR UNPAID WAGES,**
) **DAMAGES, RESTITUTION,**
) **STATUTORY PENALTIES, AND**
) **INJUNCTIVE RELIEF**

24 Maresca vs. Wackenhut Services, Inc. et al., Lo)
25 Angeles County Superior Court Case No.
26 BC373415

27 Denton vs. The Wackenhut Corporation, Orange)
28 County Superior Court Case No. 00180014

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1 Plaintiffs NIVIDA LUBIN, SYLVIA M. MARESCA, LUCIO AGARD, and KEVIN
2 DENTON ("Plaintiffs"), on behalf of themselves and all others similarly situated, allege as
3 follows:

4 **I. GENERAL ALLEGATIONS**

5 1. This is a Class Action brought pursuant to Code of Civil Procedures § 382 on behalf
6 of Plaintiffs and all other persons similarly situated (the "Plaintiff Class") who are or were
7 employed in a non-exempt security guard/officer position by THE WACKENHUT
8 CORPORATION within the State of California. Plaintiffs seek relief on a collective and a class-
9 wide basis challenging the unlawful business practices engaged in by Defendant THE
10 WACKENHUT CORPORATION and DOES 1 through 100, inclusive (collectively
11 "WACKENHUT" and/or "Defendants") of failing to pay the Plaintiff Class in accordance with
12 California wage and hour laws.

13 2. The "Class Period" is designated as the time from January 7, 2001 through the trial
14 date, based upon the allegation that the violations of California's wage and hour laws, as described
15 more fully below, have been ongoing since that time.

16 3. During the Class Period, Defendants have had a consistent policy of failing to
17 authorize and permit members of the Plaintiff Class (including Plaintiffs) to take paid rest periods
18 of at least ten (10) minutes per four (4) hours worked or major fraction thereof, and failing to pay
19 such employees one (1) hour of pay at their regular rate of compensation for each workday that the
20 rest period was not provided, as required by California state wage and hour laws.

21 4. During the Class Period, Defendants have had a consistent policy of requiring
22 members of the Plaintiff Class (including Plaintiffs) to work more than five (5) hours without
23 providing them an uninterrupted, unrestricted meal period and failing to pay such employees one
24 (1) hour of pay at their regular rate of compensation for each workday that the meal period is not
25 provided or provided after five (5) hours, as required by California state wage and hour laws.

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1 **III. PARTIES**

2 **A. PLAINTIFFS**

3 10. The California Class. This Class Action is maintained on behalf of a class of past
4 and present employees of WACKENHUT who have been and/or now are employed as non-exempt
5 security guards/officers within the State of California.

6 11. Plaintiff Nivida Lubin. During the Class Period, plaintiff Nivida Lubin (“Lubin”)
7 was employed by WACKENHUT in a non-exempt security guard/officer position.

8 12. Plaintiff Sylvia M. Maresca. During the Class Period, plaintiff Sylvia M. Maresca
9 (“Maresca”) was employed by WACKENHUT in a non-exempt security guard/officer position.

10 13. Plaintiff Lucio Agard. During the Class Period, plaintiff Lucio Agard (“Agard”)
11 was employed by WACKENHUT in a non-exempt security guard/officer position.

12 14. Plaintiff Kevin Denton. During the Class Period, plaintiff Kevin Denton
13 (“Denton”) was employed by WACKENHUT in a non-exempt security guard/officer position.

14 15. In said positions, Plaintiffs were permitted to work and did work, during the Class
15 Period, four (4) hours or a major fraction thereof, without being authorized and permitted to take a
16 minimum ten minute paid rest period for every four (4) hours or a major fraction thereof worked,
17 and without being compensated one (1) hour of pay at their regular rate of compensation for each
18 workday that a rest period was not afforded.

19 16. In said positions, Plaintiffs were permitted to work and did work, during the Class
20 Period, shifts exceeding five (5) hours without being provided an uninterrupted, unrestricted meal
21 period of not less than thirty (30) minutes, and without being compensated one (1) hour of pay at
22 their regular rate of compensation for each workday that a meal period was not afforded.

23 17. In virtually all cases where this occurred, Plaintiffs were not paid the correct amount
24 of wages due, nor were they timely paid for all earned wages, nor were their wages accurately
25 recorded, nor were accurate payroll records maintained, as required under California law during
26 the course of their employment with WACKENHUT. Plaintiffs have been injured by the illegal
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1 practices and conduct alleged herein. Plaintiffs' claims under California law are similarly to and
2 typical of the claims of the members of the Plaintiff Class.

3 **B. DEFENDANTS**

4 18. At all times relevant hereto, Defendant THE WACKENHUT CORPORATION and
5 DOES 1 through 100, inclusive (collectively "WACKENHUT" and/or "Defendants") were
6 business entities qualified to and doing business in the State of California.

7 19. WACKENHUT directly or indirectly employs, and since January 7, 2001 has
8 employed and/or exercised control over the wages, hours and/or working conditions of Plaintiffs
9 and members of the Plaintiff Class employed by WACKENHUT in non-exempt security
10 guard/officer positions within California.

11 20. Those Defendants identified as DOES 1 through 100, inclusive, are and were, at all
12 relevant times mentioned herein, officers, directors, partners, and/or managing agents of or more of
13 the other defendants. Plaintiffs are informed and believe, and thereon allege, that at all times
14 relevant times mentioned herein, each of the Defendants identified as DOES 1 through 100,
15 inclusive, employed and/or exercised control over the wages, hours and/or working conditions of
16 Plaintiffs and members of the Plaintiff Class at various locations in California.

17 21. The true names and capacities of those Defendants sued herein as DOES 1 through
18 100, inclusive, are currently unknown to Plaintiffs, who therefore sue Defendants by such fictitious
19 names under Code of Civil Procedure § 474. Plaintiffs are informed and believe and based thereon
20 allege that each of the Defendants designated herein as a DOE is legally responsible in some
21 manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this
22 Coordinated Complaint to reflect the true names and capacities of the Defendants designated
23 hereinafter as "DOES" when such identities become known.

24 22. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants
25 acted in all respects pertinent to this action as the agent or employee of the other Defendants,
26 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and therefore the
27 acts of each of the Defendants are legally attributable to the other Defendants. Defendants in all

1 respects acted as the Employer and/or joint Employer of Plaintiffs and members of the Plaintiff
2 Class.

3 **IV. FACTUAL BACKGROUND**

4 23. WACKENHUT hires hourly employees who work as security guards/officers
5 throughout California. These employees work in non-exempt positions and have not been
6 provided paid "rest periods" for work periods of four (4) hours or major fractions thereof, or off
7 duty "meal periods" for work shifts in excess of five (5) hours, and were not compensated one
8 hour's wages in lieu thereof.

9 24. At all times relevant hereto, Plaintiffs, and the members of the Plaintiff Class, were
10 and are non-exempt employees within the meaning of the California Labor Code, and the
11 implementing rules and regulations of the California Wage Code ("IWC").

12 25. Plaintiffs, and the members of the Plaintiff Class, were regularly required to work in
13 excess of three and one-half (3½) hours without being permitted and authorized to take a paid rest
14 period and were regularly required to work in excess of five (5) hours per day, without being
15 provided an off duty meal period.

16 26. WACKENHUT did not properly or fully compensate Plaintiffs for the failure to
17 provide rest periods and meal periods during the Class Period. WACKENHUT's requirement that
18 Plaintiffs work all hours at the regular rate of pay and work through meal and rest periods without
19 paying one (1) hour of compensation for failure to provide rest or meal periods was willful and
20 deliberate.

21 27. WACKENHUT willfully failed to pay one (1) hour wages in lieu of rest and meal
22 periods when each employee quit or was discharged.

23 28. WACKENHUT willfully failed to provide itemized statements to security
24 guard/officers employees setting forth all wages, rates of wages, appropriate deductions, and
25 inclusive dates of the pay period.

26 29. WACKENHUT has willfully failed to keep accurate and adequate payroll records.
27 WACKENHUT has failed to comply with Industrial Welfare Commission ("IWC") Wage Order 4-

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1 2001 by failing to maintain adequate time records showing when the employee began and ended
2 each work shift, when rest and meal periods were taken (in fact, they were not provided), and the
3 total daily hours worked in itemized wage statements which accurately reported the total hours
4 worked by Plaintiffs.

5 30. Plaintiffs are covered by California Industrial Welfare Commission Occupational
6 Wage Order No. 4-2001, 4-2000, 4-1998, California Industrial Welfare Commission in No. 4 (Title
7 8 California Code of Regulations §§ 11040, 11070) or other applicable Wage Order(s).

8 **V. CLASS ACTION ALLEGATIONS**

9 31. Plaintiffs bring this action as a Class Action pursuant to § 382 of the Code of Civil
10 Procedure, on behalf of themselves and on behalf of all persons proximately damaged by
11 WACKENHUT's conduct, including, but not necessarily limited to, the following "Plaintiff
12 Class":

13 **All persons who have been employed by THE WACKENHUT**
14 **CORPORATION in a non-exempt security guard/officer position**
15 **within the State of California at any time between January 7, 2001**
through the trial date.

16 32. Plaintiffs reserve the right under Rule 3.764, California Rules of Court, to amend or
17 modify the class description with greater specificity or further division into subclasses or limitation
18 to particular issues.

19 33. This action has been brought and may properly be maintained as a class action
20 under the provisions of § 382 of the Code of Civil Procedure, because there is a well-defined
21 community of interest in the litigation and the proposed class is easily ascertainable.

22 **A. NUMEROSITY**

23 34. A class action is the only available method for the fair and efficient adjudication of
24 this controversy. The members of the proposed class are so numerous that joinder of all members
25 would be impracticable, if not impossible, in that insofar as Plaintiffs are informed and believe, and
26 on that basis allege, that WACKENHUT currently employs hundreds of security guards/officers in
27 California and has employed thousands of other security guards/officers during the Class Period.

1 The identity of the members of the class is readily ascertainable by review of WACKENHUT's
2 records.

3 35. Accounting for employee turnover during the Class Period necessarily increases the
4 number of potential class members substantially. Plaintiffs are informed and believe, and thereon
5 allege, that WACKENHUT's employment records would provide information as to the number
6 and location of all proposed class members. Joinder of all members of the proposed class is not
7 practicable.

8 **B. COMMONALITY**

9 36. The subject matter of this action, both as to factual matters and matters of law is
10 such that there are common questions of law and fact among the class which predominate over
11 questions affecting only individual members including, among other things, the following:

12 a. Whether WACKENHUT violated Labor Code § 226.7, the applicable IWC
13 Wage Orders, and California Code Regulations, Title 8, Section 11040 by failing to authorize and
14 permit Plaintiffs and members of the Plaintiff Class to take paid rest periods for every four (4)
15 hours or major fraction thereof worked and failing to compensate said employees one (1) hours
16 wages in lieu of rest periods (and whether WACKENHUT's uniformly administered corporate
17 policies and business practices encouraged the violation of said laws and regulations);

18 b. Whether WACKENHUT violated Labor Code §§ 226.7 and 512, the
19 applicable IWC Wage Orders, and California Code Regulations, Title 8, Section 11040 by failing
20 to provide Plaintiffs and members of the Plaintiff Class meal periods on days they worked in
21 excess of five (5) hours and failing to compensate said employees one (1) hour's wages in lieu of
22 meal periods (and whether Defendants' uniformly administered corporate policies and business
23 practices encouraged the violation of said laws and regulations);

24 c. Whether WACKENHUT violated §§ 201-203 of the Labor Code by failing
25 to pay all wages due and owing at the time that the employment of certain members of the Plaintiff
26 Class with WACKENHUT terminated;

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1 d. Whether WACKENHUT violated § 17200 *et seq.* of the Business &
2 Professions Code by failing to provide meal periods to Plaintiffs and members of the Plaintiff
3 Class;

4 e. Whether WACKENHUT violated § 17200 *et seq.* of the Business &
5 Professions Code by failing to permit and authorize Plaintiffs and members of the Plaintiff Class to
6 take paid rest periods;

7 f. Whether WACKENHUT violated § 17200 *et seq.* of the Business &
8 Professions Code by failing to compensate Plaintiffs and members of the Plaintiff Class one (1)
9 hour's wages in lieu of meal and/or rest periods;

10 g. Whether Plaintiffs and the members of the Plaintiff Class are entitled to
11 equitable relief pursuant to Business & Professions Code § 17200 *et seq.*;

12 h. Whether WACKENHUT violated California Labor Code § 226 *et seq.* and
13 all other applicable Labor Code sections and Wage Orders, by failing to provide accurate itemized
14 wage statements;

15 i. Whether WACKENHUT violated California Labor Code § 226 *et seq.* and
16 all applicable Wage Orders by failing to keep adequate payroll records.

17 **C. TYPICALITY**

18 37. The claims of the Plaintiffs are typical of the claims of the Plaintiff Class. The
19 claims of Plaintiffs and members of the Plaintiff Class arise out of and/or were caused by
20 WACKENHUT's common course of conduct in violation of laws, regulations that have the force
21 and effect of law, and statutes as alleged herein.

22 **D. ADEQUACY OF REPRESENTATION**

23 38. Plaintiffs will fairly and adequately represent and protect the interests of the
24 members of the proposed class. Counsel who represent Plaintiffs are competent and experienced
25 in litigating large employment class actions and there are no individualized defenses.

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1 **E. SUPERIORITY OF CLASS ACTION**

2 39. A class action is superior to other available means for the fair and efficient
3 adjudication of this controversy. Individual joinder of all proposed class members is not
4 practicable, and questions of law and fact common to the proposed class predominate over any
5 questions affecting only individual members of the proposed class. Each member of the proposed
6 class has been damaged and is entitled to recovery by reason of WACKENHUT's illegal policy
7 and/or practice of denying members of the Plaintiff Class rest periods and meal periods without
8 legal compensation and their practice of failing to timely compensate members of the Plaintiff
9 Class all wages due upon termination of the employment relationship.

10 40. Class action treatment will allow those similarly situated persons to litigate their
11 claims in the manner that is most efficient and economical for the parties and the judicial system.
12 Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of
13 this action that would preclude its maintenance as a class action.

14 41. The California Labor Code and Wage Order provisions upon which Plaintiffs base
15 their claims are broadly remedial in nature. These laws and labor standards serve as an important
16 public interest in establishing minimum working conditions and standards in California. These
17 laws and labor standards protect the average worker from exploitation by employers who may seek
18 to take advantage of superior economic and bargaining power in setting onerous terms and
19 conditions of employment. The nature of this action and the laws available to Plaintiffs and
20 members of the Plaintiff Class they seek to represent make a class action format a particularly
21 efficient and appropriate procedure to redress the wrongs alleged herein.

22 42. This action involves a large corporate employer that employs hundreds of security
23 guards/officers in the State of California each with a relatively small claim. If each employee were
24 required to file an individual lawsuit, WACKENHUT would necessarily gain an unconscionable
25 advantage as it would be able to exploit and overwhelm the limited resources of each individual
26 plaintiff with WACKENHUT's vastly superior financial and legal resources. Requiring each class
27 member to pursue an individual remedy would also discourage the assertion of lawful claims of

1 employees who would be disinclined to file an action against their current/former employer for real
2 and justifiable fear of retaliation and permanent damage to their careers and subsequent
3 employment.

4 43. Prosecution of separate actions by individual members of the Plaintiff Class
5 identified herein, even if possible, would create a substantial risk of: (1) inconsistent or varying
6 adjudications with respect to individual class members against WACKENHUT which would
7 establish potentially incompatible standards of conduct for WACKENHUT; and/or (2)
8 adjudications with respect to the individual members of the Plaintiff Class identified herein which
9 would, as a practical matter, be dispositive of the interests of other class members who are not
10 parties to the adjudication or which substantially impair or impede the ability of the class members
11 to protect their interest.

12 **VI. FIRST CAUSE OF ACTION**

13 **FAILURE TO PROVIDE MEAL PERIODS**
14 **OR COMPENSATION IN LIEU THEREOF**
15 **(Against WACKENHUT and Does 1-100)**

16 44. Plaintiffs repeat, reallege and incorporate herein by reference each and every
17 allegation set forth in all above paragraphs, as though set forth herein in full.

18 45. At all relevant times, WACKENHUT was aware of and was under a duty to comply
19 with California Labor Code §§ 226.7 and 512, as well as the applicable Wage Orders of the
20 Industrial Welfare Commission.

21 46. Labor Code § 226.7 and the applicable Wage Orders of the Industrial Welfare
22 Commission provide that if an employer fails to provide a non-exempt employee with an
23 appropriate off duty meal period, the employer must pay the employee one (1) hour of pay at the
24 employee's regular rate of compensation for each work day that the meal period is not provided.

25 47. Pursuant to the policies and business practices of WACKENHUT, members of the
26 Plaintiff Class, including Plaintiffs, were not regularly provided adequate meal periods as required
27 by California law and were not compensated by WACKENHUT for each work day that adequate
28 meal periods were not provided.

1 48. WACKENHUT failed to provide members of the Plaintiff Class, including
2 Plaintiffs, with timely off duty meal periods of not less than thirty (30) minutes as required by the
3 Labor Code during the Class Period.

4 49. By failing to regularly provide and timely uninterrupted and unrestricted meal
5 periods, during which members of the Plaintiff Class were relieved of all duty, WACKENHUT
6 violated California Labor Code §§ 226.7 and 512, as well as the applicable Wage Orders of the
7 Industrial Welfare Commission.

8 50. As a direct and proximate result of WACKENHUT's unlawful conduct, as set forth
9 herein, the members of the Plaintiff Class, including Plaintiffs, are entitled to unpaid wages and
10 interest pursuant to statute, all in a sum to be established at trial. As a further and direct result of
11 WACKENHUT's unlawful conduct, as set forth herein, the members of the Plaintiff Class,
12 including Plaintiffs, are entitled to recover various penalties as well as costs and attorneys' fees
13 pursuant to statute, all in a sum to be established at trial.

14 **VII. SECOND CAUSE OF ACTION**

15 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
16 **OR PROVIDE COMPENSATION IN LIEU THEREOF**
17 **(Against WACKENHUT and Does 1-100)**

18 51. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
19 forth in all above paragraphs, as though fully set forth herein.

20 52. At all relevant times, WACKENHUT was aware of and was under a duty to comply
21 with California Labor Code §§ 226.7, as well as the applicable Wage Orders of the Industrial
22 Welfare Commission.

23 53. Labor Code § 226.7 and the applicable Wage Orders of the Industrial Welfare
24 Commission provide that if an employer fails to authorize and permit a non-exempt employee to
25 take an appropriate paid rest period, the employer must pay the employee one (1) hour of pay at the
26 employee's regular rate of compensation for each work day that the rest period is not provided.

27 54. Pursuant to the policies and business practices of WACKENHUT, members of the
28 Plaintiff Class, including Plaintiffs, were not regularly authorized and permitted by

1 WACKENHUT to take adequate rest periods as required by California law and did not receive
2 compensation for each work day that adequate rest periods were not authorized and permitted by
3 WACKENHUT.

4 55. WACKENHUT failed to provide members of the Plaintiff Class, including
5 Plaintiffs, with timely rest periods of not less than ten (10) minutes per four (4) hours or major
6 fraction thereof worked as required by the Labor Code during the Class Period.

7 56. By failing to regularly provide uninterrupted rest periods, during which members of
8 the Plaintiff Class were relieved of all duty, WACKENHUT violated California Labor Code
9 § 226.7 as well as the applicable Wage Orders of the Industrial Welfare Commission.

10 57. As a direct and proximate result of WACKENHUT's unlawful conduct, as set forth
11 herein, the members of the Plaintiff Class, including Plaintiffs, are entitled to unpaid wages and
12 interest pursuant to statute, all in a sum to be established at trial. As a further and direct result of
13 WACKENHUT's unlawful conduct, as set forth herein, the members of the Plaintiff Class,
14 including Plaintiffs, are entitled to recover various penalties as well as costs and attorneys' fees
15 pursuant to statute, all in a sum to be established at trial.

16 **VIII. THIRD CAUSE OF ACTION**

17 **FAILURE TO PAY COMPENSATION TIMELY** 18 **UPON SEVERANCE OF EMPLOYMENT** 19 **(Against WACKENHUT and Does 1-100)**

20 58. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
21 forth in all paragraphs above, as though fully set forth herein.

22 59. Labor Code § 203 provides that if an employer willfully fails to timely pay earned
23 wages due to an employee who is discharged or quits, in accordance with Labor Code §§ 201 or
24 202, the employee's wages continue at the same rate until paid or until suit is filed, but not for
25 more than 30 days. "Willful" means the employer intentionally failed or refused to pay a wage
26 obligation that was due. To be at fault within the meaning of the statute, the employer's refusal to
27 pay need not be based on a deliberate evil purpose to defraud workers of wages which the
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1 employer knows to be due; rather, the term “willful” merely means that the employer intentionally
2 failed or refused to perform an act which was required to be done.

3 60. During the Class Period, WACKENHUT has had a consistent policy of failing to
4 timely pay wages earned by members of the Plaintiff Class, including Plaintiffs, who have been
5 discharged by WACKENHUT or who have voluntarily quit. The members of the Plaintiff Class,
6 including Plaintiffs, earned the above-described wages prior to their termination of employment or
7 voluntary resignation.

8 61. WACKENHUT willfully failed to pay said wages at the time said members of the
9 Plaintiff Class were discharged, or quit their employment, in violation of Labor Code § 203. As a
10 result, Plaintiffs and each member of the Plaintiff Class who was discharged or voluntarily
11 resigned is entitled to a payment of up to 30 days pay at the same rate that each such individual
12 member of the Plaintiff Class was paid at the time of the separation of their employment, interest
13 on the unpaid amounts, and an award of reasonable attorneys’ fees and costs pursuant to statute, all
14 in amounts to be proven at trial.

15 **IX. FOURTH CAUSE OF ACTION**

16 **FOR KNOWING AND INTENTIONAL FAILURE TO COMPLY**
17 **WITH ITEMIZED EMPLOYEE WAGE STATEMENT PROVISIONS**
18 **(Against WACKENHUT and Does 1-100)**

19 62. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
20 forth in all paragraphs above, inclusive, as though fully set forth herein.

21 63. California Labor Code § 226(a) states that every employer shall, semimonthly or at
22 the time of each payment of wages, furnish each of his or her employees, either as a detachable
23 part of the check, draft, or voucher paying the employee’s wages, or separately when wages are
24 paid by personal check or cash, an accurate itemized statement in writing showing substantial
25 detailed information, including but not limited to, all hours worked and all rates of pay.

26 64. WACKENHUT failed to provide “accurate itemized statements” to employees
27 because the wage statements failed to correctly state all items required by Labor Code § 226(a).

1 **XI. SIXTH CAUSE OF ACTION**

2 **FOR VIOLATION OF LABOR CODE § 223**
3 **(Against WACKENHUT and Does 1-100)**

4 70. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
5 forth in all above paragraphs, inclusive, as though fully set forth herein.

6 71. Plaintiffs and the members of the Plaintiff Class have been or were suffered to
7 work, as non-exempt security guards/officers to provide security services for and/or on behalf of
8 WACKENHUT in California.

9 72. During the Class Period, WACKENHUT has required members of the Plaintiff
10 Class, including Plaintiffs, to forego off-duty paid rest periods and/or off-duty meal periods,
11 including but not limited to suffering them to take either no or on-duty rest and/or meal periods,
12 without compensating them the additional hour of wages required by Labor Code §§ 226.7 and/or
13 512 and the applicable IWC Wage Order, while at the same time purporting to be in compliance
14 with these statutory requirements.

15 73. During the Class Period, WACKENHUT has failed to timely pay wages earned by
16 members of the Plaintiff Class upon termination of the employment relationship in violation of
17 Labor Code § 203, while at the same time purporting to be in compliance with this statutory
18 requirement.

19 74. Labor Code § 223 provides: “[w]here any statute...requires an employer to maintain
20 the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to
21 pay the wage designated by statute...” Pursuant to Labor Code § 225, a violation of Labor Code
22 § 223 constitutes a misdemeanor.

23 75. WACKENHUT violated Labor Code § 223 by secretly failing to pay meal and rest
24 period premium wages to Plaintiffs and the members of the Plaintiff Class, while at the same time
25 purporting to be in compliance with the statutory requirements set forth in Labor Code §§ 203,
26 226.7, and/or 512, as well as the applicable IWC Wage Order(s). As a result of WACKENHUT’s
27 violation of Labor Code § 223, the members of the Plaintiff Class have been injured, all to their
28 damage in amounts to be proven at trial.

1 **XII. SEVENTH CAUSE OF ACTION**

2 **FOR CIVIL PENALTIES (LABOR CODE § 558**
3 **(Against WACKENHUT and DOES 1-100)**

4 76. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
5 forth in all above paragraphs, inclusive, as though fully set forth herein.

6 77. During the Class Period, WACKENHUT has had a consistent policy of underpaying
7 members of the Plaintiff Class as alleged herein. The members of the Plaintiff Class earned the
8 above-described wages.

9 78. Labor Code Section 558(a) provides:

10 "Any employer or other person acting on behalf of an employer who
11 violates, or causes to be violated, a section of this chapter or any provision
12 regulating hours and days of work in any order of the Industrial Welfare
13 Commission shall be subject to a civil penalty as follows:

14 (1) For any initial violation, fifty dollars (\$50) for each underpaid
15 employee for each pay period for which the employee was underpaid in
16 addition to an amount sufficient to recover underpaid wages.

17 (2) For each subsequent violation, one hundred dollars (\$100) for each
18 underpaid employee for each pay period for which the employee was
19 underpaid in addition to an amount sufficient to recover underpaid wages.

20 (3) Wages recovered pursuant to this section shall be paid to the
21 affected employee.

22 79. WACKENHUT has not paid Plaintiffs and the members of the Plaintiff Class all of
23 the wages which they are owed, thus entitling Plaintiffs and the members of the Plaintiff Class to
24 civil penalties pursuant to Labor Code Section 558 for each pay period that Plaintiffs and the
25 members of the Plaintiff Class were underpaid, all in amounts to be proven at trial.

26 **XIII. EIGHT CAUSE OF ACTION**

27 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**
28 **(Against WACKENHUT and Does 1-100)**

80. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
forth in all above paragraphs, inclusive, as though fully set forth herein.

81. WACKENHUT has engaged in unfair business practices in California utilizing and
engaging in an unlawful pattern and practice of failing to pay properly employee compensation as

1 previously described herein, including without limitation by not providing adequate meal periods
2 and rest periods, by failing to timely pay wages due and owing, and by failing to pay for violations
3 of Labor Code §§ 203, 226, 226.7, and 558.

4 82. The acts complained herein occurred, at least, in part, during the Class Period.

5 83. Plaintiffs are informed and believe, and thereon allege, that at all times relevant
6 herein, WACKENHUT has engaged in unlawful, deceptive, and unfair business practices
7 prohibited by the Labor Code and Business & Professions Code § 17200, *et seq.* as alleged in the
8 proceeding paragraphs, thereby depriving Plaintiffs and the members of the Plaintiff Class the
9 minimum working standards and conditions due them under the labor laws of California and the
10 Industrial Welfare Commission Wage Orders as described herein.

11 84. WACKENHUT's use of such practices constituted and constitutes an unfair
12 business practice, unfair competition, and provides an unfair advantage over WACKENHUT's
13 competitors in California.

14 85. As a result of their unlawful acts and unfair business practices, WACKENHUT
15 deprived Plaintiffs and the members of the Plaintiff Class wages and benefits they legitimately
16 earned and WACKENHUT has used these wages and benefits for its own use and advantage.
17 WACKENHUT should be enjoined from this activity and ordered to restore to Plaintiffs and the
18 members of the Plaintiff Class their lost wages and benefits. The restitution includes all wages
19 earned and unpaid, including interest thereon, all in an amount to be proven at trial.

20 **XIV. NINTH CAUSE OF ACTION**

21 **CIVIL PENALTIES UNDER P.A.G.A.**
22 **(Against WACKENHUT and Does 1-100)**

23 86. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
24 forth in all above paragraphs, inclusive, as though fully set forth herein.

25 87. Labor Code § 2699(f) provides:

26 For all provisions of this code except those for which a civil penalty is
27 specifically provided, there is established a civil penalty for a violation of
28 these provisions, as follows: . . . (2) If, at the time of the alleged violation,
the person employs one or more employees, the civil penalty is one hundred
dollars (\$100) for each aggrieved employee per pay period for the initial

1 violation and two hundred dollars (\$200) for each aggrieved employee per
2 pay period for each subsequent violation. . . .

3 88. To the extent any violation alleged herein does not carry penalties under other
4 provisions of the Labor Code, Plaintiffs seek civil penalties pursuant to Labor Code § 2699(f) for
5 Plaintiffs and each member of the Plaintiff Class for each pay period in which he or she was
6 aggrieved, in the amounts established by Labor Code § 2699(f).

7 89. Plaintiffs seek penalties on behalf of themselves, other aggrieved members of the
8 Plaintiff Class, and the State, as provided by Labor Code § 2699(i).

9 90. WACKENHUT is liable to Plaintiffs, the members of the Plaintiff Class, and the
10 State for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also
11 entitled to an award of attorneys' fees and costs as set forth below.

12 **XV. TENTH CAUSE OF ACTION**

13 **INJUNCTIVE RELIEF UNDER BUSINESS & PROFESSIONS CODE § 17203**
14 **(Against WACKENHUT and Does 1-100)**

15 91. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set
16 forth in all paragraphs above, inclusive, as though fully set forth herein.

17 92. This is a Representative Private Attorney General action and Class Action for
18 Unfair Business Practices. Plaintiffs on their own behalf and on behalf of the general public and
19 on behalf of others similarly situated, bring this claim pursuant to Business & Professions Code
20 § 17200, *et seq.* The conduct of WACKENHUT as alleged in this Coordinated Complaint has
21 been and continues to be unfair, unlawful, and harmful to Plaintiffs, the general public, and the
22 members of the Plaintiff Class. Plaintiffs seek to enforce important rights affecting the public
23 interest within the meaning of Code of Civil Procedure § 1021.5.

24 93. Plaintiffs are "persons" within the meaning of Business & Professions Code
25 § 17204, and therefore have standing to bring this cause of action for injunctive relief, restitution,
26 and other appropriate equitable relief.

27 94. Business & Professions Code § 17200, *et seq.* prohibits unlawful and unfair
28 business practices. Defendants have engaged in unfair business practices in California utilizing

1 and engaging in an unlawful pattern and practice of failing to properly pay employee compensation
2 as previously described herein.

3 95. Wage and hour laws express fundamental public policies, and it is the public policy
4 of this State to enforce vigorously minimum labor standards, to ensure that employees are not
5 required or permitted to work under substandard and unlawful conditions, and to protect law-
6 abiding employer and their employees from competitors who lower their costs by failing to comply
7 with minimum labor standards.

8 96. As alleged in this Coordinated Complaint, WACKENHUT has violated statutes and
9 public policies. Through the conduct alleged in this Coordinated Complaint, Defendants, and each
10 of them, have acted contrary to these public policies, have violated specific provisions of the Labor
11 Code, and have engaged in other unlawful and unfair business practices in violation of Business &
12 Professions Code § 17200, *et seq.*, depriving Plaintiffs and all persons similarly situated of rights,
13 benefits, and privileges guaranteed to all employees under the law. The acts complained of herein
14 occurred, at least, within the Class Period.

15 97. As a proximate result of the above mentioned acts of WACKENHUT, Plaintiff and
16 others similarly situated have been damaged in a sum as may be proven.

17 98. Unless restrained and enjoined by this Court, Defendants will continue to engage in
18 the unlawful conduct as alleged above. Pursuant to Business & Professions Code § 17203, this
19 Court should make such orders or judgments, including the appointment of a receiver, as may be
20 necessary to prevent the continued use and employment, by Defendants, their agents or employees,
21 of any unlawful or deceptive practice prohibited by the Business & Professions Code, the Labor
22 Code, and/or IWC Wage Order 4-2001 or other applicable Wage Orders.

23 **RELIEF REQUESTED**

24 **WHEREFORE**, Plaintiffs pray for the following relief:

- 25 1. That the Court determine that this action may be maintained as a class action or
26 actions;
27 2. That Plaintiffs' attorneys be named class counsel;

1 3. That the Court declare that Defendants' policies and practices violate California
2 law, including but not limited to, the Labor Code;

3 4. That the Court declare that Defendants' conduct as alleged herein violated Labor
4 Code §§ 201, 202, 203, 223, 226, 226.7, and 512, the California Code of Regulations, Title 8,
5 Section 11040, and the applicable Wage Orders;

6 5. That the Court declare that Defendants engaged in unfair competition in violation of
7 California Business and Professions Code § 17200 *et seq.*

8 6. That the Court enter an order against Defendants for compensatory damages in an
9 amount according to proof with interest thereon;

10 7. That the Court enter an order against Defendants for economic and/or special
11 damages in an amount according to proof with interest thereon;

12 8. That the Court enter an order that each of the Defendants be ordered and enjoined to
13 make restitution to the Class(es) due to their unfair competition, including specifically the
14 restitutionary disgorgement of all the wages and benefits wrongfully retained by Defendants,
15 pursuant to California Business and Professions Code §§ 17203 and 17204;

16 9. That the Court enter an order against each of the Defendants enjoining each of them
17 from continuing the unlawful or unfair competition in violation of § 17200 as alleged herein;
18 That the Court enter an order against each of the Defendants enjoining each of them from further
19 acts of restraint of trade or unfair competition;

20 10. That the Court enter an order against Defendants for premium wages pursuant to
21 Labor Code §§ 226 and 226.7 and all other applicable Labor Code Sections;

22 11. That the Court enter an order against Defendants imposing all statutory and/or civil
23 penalties provided by law, including but not limited to, penalties under Labor Code §§ 203, 210,
24 225.5, 226, 226.3, 226.7, 512, 558, 1174.5, 2699(a) and 2699(f);

25 12. That the Court enter an order against Defendants awarding to Plaintiffs and the
26 members of the Plaintiff Class reasonable attorneys' fees, costs, and interest thereon pursuant to
27 Code of Civil Procedure § 1021.5, Labor Code §§ 218.5, 218.6, 226, 1194, 2699(g), 2802 and/or
28 all other applicable Labor Code Sections, and all other applicable statutes and law; and

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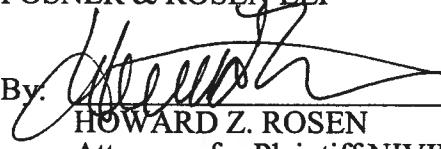
13. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial on all causes of actions and claims to which there is a right to jury trial.

Dated: August 20, 2009

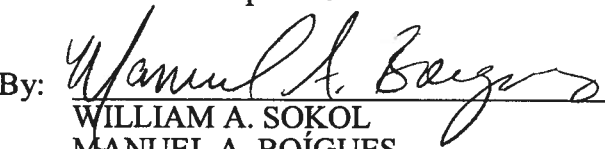
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Dated: August 20, 2009

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