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FILED
ALAMEDA COUNTY

DEC 29 2010

CLERK OF THE SUPERIOR COURT

By [Signature]
 Deputy

5 Attorneys for Plaintiffs DANIEL CHILDS,
 6 DANTE WARD, and SHAON ROBINSON

7
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

10
 11 DANIEL CHILDS, DANTE WARD, and
 12 SHAON ROBINSON, on behalf of themselves
 and all others similarly situated, and the general
 13 public,

Plaintiffs,

14 v.

15 NESTLE WATERS NORTH AMERICA, INC.
 16 d/b/a ARROWHEAD WATERS, a Delaware
 Corporation; and DOES 1 through 10, inclusive,
 17

Defendants.

Case No. **RG10553619**

CLASS ACTION

COMPLAINT FOR:

1. **Race Discrimination** (Cal. Gov't Code § 12940);
2. **Failure to Prevent Discrimination** (Cal Gov't Code § 12940);
3. **Race Discrimination in Violation of Public Policy;**
4. **Interference with CFRA Rights** (Cal. Gov't Code § 12945.2);
5. **Unfair Business Practices** (Cal. Bus. & Prof. Code § 17200)

JURY TRIAL DEMANDED

BY FAX

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1 5. Plaintiffs are ignorant of the true names and capacities of defendants sued herein
2 as Does 1- 10, inclusive, and thus sue such defendants by such fictitious names pursuant to
3 California Code of Civil Procedure § 474, and will amend this complaint to allege their true
4 names and capacities when ascertained. Plaintiffs are informed and believe that each of these
5 factiously named defendants is responsible in some manner for the occurrences, and that such
6 aforementioned defendants' acts and omissions proximately caused the Plaintiffs' injuries as
7 alleged herein.

8 6. Plaintiff is informed and believes that at all times mentioned herein, the Doe
9 Defendants were the agents, employees and servants of Nestle, committed the occurrences, acts
10 and omissions complained of herein while acting within the scope of such agency, employment
11 and servitude, and are responsible for the occurrences, acts and omissions of each Defendant
12 complained of herein.

13 **JURISDICTION AND VENUE**

14 7. At all times mentioned in this Complaint, Plaintiffs were residents of the state of
15 California.

16 8. Nestle is a corporation organized under the laws of the State of Delaware, with its
17 principal corporate headquarters at 777 West Putnam Avenue, Greenwich, CT 06830. It
18 maintains approximately twenty business locations in the State of California, and at least one
19 business location in the County of Alameda and City of Oakland, and does business as
20 Arrowhead Waters. It is registered with the Secretary of State to do business in California as a
21 corporation under Entity No. C1879121.

22 9. Arrowhead Waters, Corp. was previously a Delaware Corporation. It merged
23 with Nestle in February, 1987, and Nestle has been doing business as Arrowhead Water in the
24 State of California, and the County of Alameda since that time.

25 10. This Court is the proper Court, and this action is properly filed in the County of
26 Alameda, City of Oakland, because Nestle's obligations and liability arise therein, because
27 Nestle transacts business within the County of Alameda and this Judicial District, and because
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1 Plaintiffs performed the work at issue in this action for Nestle in County of Alameda, City of
2 Oakland, and in this Judicial District.

3 **CLASS ACTION ALLEGATIONS**

4 11. Plaintiffs bring this action on behalf of themselves individually and as members
5 of and representatives for the following two Sub-Classes:

6 a. **The "Race Sub-Class"**: All former and current African American employees
7 of Nestle who worked as Route Sales Representatives in California at any
8 time from December 29, 2006 to the date of filing this Complaint. All three
9 Named Plaintiffs are members of this Sub-Class.

10 b. **The "CFRA Sub-Class"**: All former and current employees of Nestle who
11 received an "occurrence" penalty because of taking family or medical leave or
12 was terminated under the "no-fault" penalty policy applied by Nestle because
13 of taking family or medical leave at any time from December 29, 2006 to the
14 date of filing this Complaint. Mr. Childs and Mr. Ward are members of this
15 Sub-Class.

16 12. **Common questions predominate.** There is a well-defined community of interest
17 in the questions of law and fact affecting all Class Members, in that a systematic and continuous
18 course of illegal practices was applied to all of them alike.

19 13. Specifically, the following common questions apply to the Race Sub-Class:

20 a. Whether Nestle implemented subjective and inconsistent hiring practices
21 and policies;

22 b. Whether Nestle implemented subjective and inconsistent training practices
23 and policies;

24 c. Whether Nestle's "discretionary" promotion and training policies
25 consistently disadvantaged African American employees with regard to
26 training, promotions, and terminations;

27 d. Whether African American RSRs were consistently denied preferred
28 routes to the benefit of non-African American RSRs, such that Race Sub-

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Class members could not qualify for advancement, regularly received “occurrence” penalties and were terminated because of unfairly applied performance standards.

e. Whether Nestle’s discretionary training and performance evaluation policies and practices prevented African American RSRs from advancing to supervisory and management positions in the company, and instead lead to penalties and terminations.

14. Furthermore, the following common questions apply to the CFRA Sub-Class:

- a. Whether Nestle’s “no fault” occurrence penalty policy was applied to employees who took family or medical leave in excess of that provided by the company;
- b. Whether Nestle’s “no fault” occurrence penalty policy was applied to employees who did not take family or medical leave in excess of that provided by the company;
- c. Whether Nestle’s “no fault” occurrence penalty policy caused adverse employment actions, including termination, to employees who exercised their CFRA leave rights;
- d. Whether Nestle’s “no fault” occurrence penalty policy interfered with the exercise of employees’ CFRA rights.

15. Finally, as to both Sub-Classes, whether the Company’s policies, including the “no-fault occurrence” policy was applied systematically and continuously such that it is an unfair business practice.

16. **Numerosity.** Plaintiffs are informed and believe, and thereon allege that Nestle currently employs over 200 individuals throughout the State of California. Plaintiffs are informed and believe that the Race Sub-Class consists of at least 100 current and former employees, making joinder of all Race Sub-Class Members impracticable and making treatment of all class members’ claims collectively, rather than individually, to the benefit of the parties and the Court. Likewise, Plaintiffs are informed and believe that the CFRA Sub-Class consists

1 of all Nestle employees subjected to the no-fault occurrence policy, and includes at least 100
2 current and former employees.

3 17. **Typicality.** Plaintiffs' claims are typical of those of other Class Members, in that
4 their job titles, duties and activities are the same as those of the other Class Members, were
5 subjected to the same promotion, penalty, and termination policies and practices as the rest of the
6 Class, and were otherwise denied the benefits and protections of the employment laws and
7 regulations at issue in this case¹ in the same manner as were the other Class Members.

8 18. **Adequacy.** Plaintiffs are able to fairly and adequately protect the interests of the
9 rest of the Class, because (1) their interests are aligned with those of the rest of the Class in that
10 their claims are those of a typical Class Member, the Class as a whole shares many common
11 questions of law and fact, and there is no evidence of any antagonism between them and the rest
12 of the Class; and (2) Plaintiffs' counsel is competent and experienced in litigating class actions in
13 California based on violations of the Employment Laws and Regulations.

14 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 19. Named Plaintiffs have timely filed a charge of discrimination against the
16 Defendants with the California Department of Fair Employment and Housing (DFEH) and have
17 received their right to sue in the California Superior Court pursuant to California Government
18 Code §12965(b). Named Plaintiffs filed this action within one year of the date of their right to
19 sue letters received from the DFEH and have, therefore, properly exhausted their administrative
20 remedies.

21 20. Named Plaintiffs have satisfied all private, administrative and judicial
22 prerequisites to the institution of this action.

23 21. The California Workers' Compensation Act does not preempt this action because
24 discrimination is not a risk or condition of employment.

25 ///

26 ///

27 ¹ The "Employment Laws and Regulations" subsequently cited include the California Fair Employment and
28 Housing Act, Cal. Gov't Code § 12940 *et seq.*, and the California Family Rights Act, Cal. Gov't Code § 12945.2 *et seq.*, and the implementing regulations related to those statutes promulgated by the D.F.E.H. and other agencies.

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FACTS COMMON TO THE RACE SUB-CLASS

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2 22. At all relevant times alleged herein, Plaintiffs are informed and believe that Nestle
3 is authorized to and does conduct business in the State of California in the manufacturing
4 industry, employing Class Members as RSRs at about twenty warehouse locations throughout
5 the state. In these positions, African American RSRs are subjected to discriminatory treatment in
6 terms of the routes they are given, how quotas and sales goal policies are applied, how they
7 receive training and promotional opportunities, and ultimately, how they are terminated.

8 23. The corporate culture at Nestle includes both subjective and discretionary
9 management decision making and a company culture that discourages complaints about
10 problems in the workplace, as described below. The combination of unexamined, subjectively
11 implemented policies and practices at Nestle and a culture of avoiding complaining leads to a
12 workforce where African Americans cannot advance into supervisory or other management
13 positions.

14 24. As part of their jobs, Race Sub-Class Members are required to, among other
15 things, deliver bottled water on pre-determined routes, and attempt to “upsell” additional bottled
16 water products to existing customers on their routes.

17 25. The African-American RSRs are assigned harder routes, with higher volume,
18 more products on their trucks, further distances to travel, more time spent driving, heavier loads,
19 and more lifting and hauling than their non-African American counterparts. All of these factors
20 result in fewer opportunities to upsell. When RSRs’ upsale numbers are lower than quotas set by
21 the company, it leads to disciplinary action for those RSRs, and can lead to termination. All
22 Named Plaintiffs have received write-ups for not meeting their upselling quotas.

23 26. Similarly, when African American RSRs have routes in close proximity to non-
24 African American RSRs, it is a regular occurrence that service stops on the non-African
25 American RSR’s route get shifted to the African American RSR’s route. This is called “off
26 route” or “farm route” work. Mr. Childs and other African American RSRs routinely absorb the
27 work load of other non-African American employees. The increased workload from the “off
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1 route" work, on top of routes that already require longer driving hours and more time loading
2 and delivering further interferes with upselling.

3 27. Nestle implemented a "5-Step" performance evaluation plan related to its
4 upselling goals. The 5-Step plan was devised to fire people, not boost sales or performance. It
5 specifically targets African American employees who do not have the same opportunities to
6 upsell due to their more difficult routes, as described above. As described, RSRs who do not
7 meet their upselling goals are written up. Nestle's management calls this process "progressive
8 discipline." This 5-Step plan was not distributed in a pamphlet or manual. Rather, employees
9 were informed about the 5 step plan in a team meeting.

10 28. Additionally, African American RSRs are regularly scheduled as floaters/route
11 relief drivers, filling in for other unavailable drivers. They are assigned to these routes by
12 subjective scheduling policies implemented by Nestle management. RSRs that are scheduled as
13 floaters/route relief drivers are not entitled to a \$1.00 per hour premium pay, meaning that Race
14 Sub-Class members are additionally deprived of pay by working more often as floaters.

15 29. Furthermore, African American RSRs are discouraged from participating in
16 training to advance out of their RSR positions. Race Sub-Class members are put in training to
17 become supervisors without compensation for time spent training. After their training is
18 complete, Sub-Class members are told there are no positions available. Despite completing
19 training, Sub-Class Members are not promoted to supervisor positions, do not receive changes in
20 their job titles, and do not receive increases in pay.

21 30. Related, the company's written policies dictate that supervisor job opportunities
22 are to be posted on bulletin boards at job sites, giving all employees an opportunity to apply for
23 those positions. Instead, jobs are not in practice posted, and the company has a practice of
24 allowing managers to use their discretion to offer and fill supervisory roles. This leads to a
25 culture where employees must "be in good" with management to even know about, let alone
26 apply for, supervisory jobs. This subjective hiring policy means that in practice, supervisory
27 jobs are filled by White, or at least non-African American, employees. African American
28 employees stay at the same RSR level and cannot advance into supervisory and management

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1 positions despite completing the supervising training. Indeed, where the Named Plaintiffs are
2 employed, there are no African American employees in any supervisory or management jobs.

3 31. The Named Plaintiffs have been unable to advance in the company despite their
4 attempts to advance because of the company's promotion and hiring policies and practices. For
5 example, in 5 years with the company, Mr. Childs is at the same RSR level he originally started
6 at, despite attempts to advance. He requested to be an Emerging Leader (Nestle's purported
7 management training program) but was told he should not bother because he had a "paper trail"
8 of too many "occurrence" penalties, including penalties incurred because of inadequate upselling
9 caused by the longer routes he drove. Similarly, Mr. Robinson has been placed in the Emerging
10 Leader program, but has not actually completed any training, and up until his termination,
11 remained an RSR.

12 32. In part, these specific company practices are related to a company culture that is
13 separated, between African American employees and everyone else. Latino, Asian, and Pilipino,
14 receive the same preferential promotion and scheduling practices as the white employees.
15 African American employees have to be more careful about how they interact with employees,
16 and they must "walk a finer line" than other workers.

17 33. For example, when African American employees are quiet, managers will
18 comment that they "need to smile" or "lose the attitude." Non-African American employees are
19 allowed to swear and act inappropriately in the workplace, but never receive comments about
20 their "attitude." African American employees are under more pressure because management
21 watches their every move, and looks for any error to justify an "occurrence" penalty. They are
22 subject to increased scrutiny in many aspects of work. Just as an example, there is no leeway for
23 African American employees to be late. African American employees will receive an
24 "occurrence" penalty for being late, when they are waiting in line to clock in.

25 34. Finally, the company has been aware of race related incidents, but has not
26 intervened. For example, Mr. Robinson complained to the company that one of its drivers
27 brought a noose to work and placed it in his truck. This image is highly symbolically laden with
28 regard to African American slavery and history. Mr. Robinson made a complaint to that effect,

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1 and that there was a company culture that could allow such an event to happen, because White
2 employees were treated so much more leniently, but did not receive any significant response
3 from the company.

4 35. The Human Resources Department at Nestle is unresponsive to complaints about
5 all of these issues, but will tell other employees private information about African American
6 employees who do complain, which discourages them from making complaints.

7 **FIRST CAUSE OF ACTION BY THE RACE SUB-CLASS**

8 **RACE DISCRIMINATION**

9 **(Cal. Gov't Code § 12940 *et seq.*) (FEHA)**

10 **(Against All Defendants)**

11 36. Plaintiffs incorporate paragraphs 1 through 35 as though set forth fully herein.

12 37. Under FEHA, it is an unlawful employment practice to discriminate on the basis
13 of race in an employment situation.

14 38. As described above, Defendants, and each of them, perpetrated discriminatory
15 acts towards Plaintiffs, in the form of not giving them the opportunity to make their upsale
16 quotas, train for, or be considered for supervisory jobs on the basis of Plaintiffs' African-
17 American race and by unfairly applying "occurrence" penalties and terminating their
18 employment on the basis of their race.

19 39. As described above, Defendants, and each of them, were aware of discriminatory
20 conduct occurring in the work place being maintained by Nestle.

21 40. Plaintiffs have incurred, and will continue to incur, attorneys' fees in the
22 prosecution of this action and therefore demand such reasonable attorneys' fees and costs as set
23 by this court. Notwithstanding notice of discrimination in the work place maintained
24 by Defendants, Defendants took no steps to prevent such discrimination from occurring, and instead
25 actually continued to perpetrate said discrimination.

26 41. The conduct of Nestle described herein above was outrageous and was executed
27 with malice, fraud and oppression, and with conscious disregard for Plaintiffs' rights, and
28 further, with the intent, design and purpose of injuring Plaintiff.

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1 42. Defendants, and each of them, as individuals and/or through their officers,
2 managing agents, and/or its supervisors, authorized, condoned and/or ratified the unlawful
3 conduct described herein above. By reason thereof, Plaintiffs are entitled to an award of
4 punitive damages in an amount according to proof at the time of trial.

5 **SECOND CAUSE OF ACTION BY THE RACE SUB-CLASS**
6 **FAILURE TO PREVENT DISCRIMINATION ON THE BASIS OF RACE**

7 **(Cal. Gov't Code § 12940 et seq.)**

8 **(Against All Defendants)**

9 43. Plaintiffs incorporate paragraphs 1 through 42 as though set forth fully herein.

10 44. Under FEHA, it is an unlawful employment practice to fail to take all reasonable
11 steps to prevent employment discrimination on the basis of race.

12 45. As described above, Defendant Nestle perpetrated discriminatory acts towards
13 Plaintiffs.

14 46. As described above, Defendant Nestle was aware of discriminatory conduct
15 occurring in the work place it maintained.

16 47. Plaintiffs have incurred, and will continue to incur, attorneys' fees in the
17 prosecution of this action and therefore demands such reasonable attorneys' fees and costs as set
18 by this court. Notwithstanding notice of discrimination in the work place it maintained, Nestle
19 took no steps to prevent such discrimination from occurring, and instead actually continued to
20 perpetrate said discrimination. Moreover, Defendant Nestle refused to discipline individuals
21 who discriminated against Plaintiffs. This failure constitutes a breach of the Defendant's
22 obligation to prevent discrimination on the basis of race.

23 48. Defendant Nestle has refused and continues to refuse to discipline, dismiss or
24 discharge high management officials it knows, or should know, to have discriminated against
25 Plaintiffs on the basis of race, and to have condoned such discrimination.

26 49. As a result of Defendant Nestle's breach of its obligation to prevent
27 discrimination, Plaintiffs suffered said discrimination in the work place.
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1 50. The conduct of Nestle described herein above was outrageous and was executed
2 with malice, fraud and oppression, and with conscious disregard for Plaintiffs' rights, and
3 further, with the intent, design and purpose of injuring Plaintiffs.

4 51. Defendant Nestle, through its officers, managing agents, and/or its supervisors,
5 authorized, condoned and/or ratified the unlawful conduct described herein above. By reason
6 thereof, Plaintiffs are entitled to an award of punitive damages in an amount according to proof
7 at the time of trial.

8 **THIRD CAUSE OF ACTION BY THE RACE SUB-CLASS**
9 **DISCRIMINATION ON THE BASIS OF RACE IN VIOLATION OF PUBLIC POLICY**

10 *(Tameny v. Atlantic Richfield)*

11 **(Against All Defendants)**

12 52. Plaintiffs incorporate paragraphs 1 through 51 as though set forth fully herein.

13 53. Jurisdiction is invoked in this court pursuant to the public policy and common law
14 of the State of California, pursuant to the case of *Tameny v. Atlantic Richfield Company* (1980)
15 27 Cal. 3d 167 and *Rojo v. Kliger* (1990) 52 Cal. 3d 65.

16 54. Under California law, there is a fundamental and well-established public policy
17 against discrimination. Said public policy is embodied in the Constitution of the State of
18 California and California Statutory law, including but not limited to Cal. Gov't Code § 12940.

19 55. This is a claim for relief arising from Defendants' causing, and its failure to
20 prevent, racial discrimination against its African American employees.

21 56. Because of Defendants' failure to prevent racial discrimination, Plaintiffs suffered
22 adverse employment actions, including denied promotions and terminations.

23 57. As a direct and proximate result of the actions of Defendant, including the
24 discrimination against Plaintiffs with respect to their employment, based upon their race,
25 Plaintiffs have suffered and will continue to suffer pain and extreme and severe mental anguish
26 and emotional distress. Plaintiffs have further suffered and will continue to suffer a loss of
27 earnings and other employment benefits; whereby Plaintiffs are entitled to general compensatory
28 damages in amounts to be proven at trial.

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1 58. The conduct of Defendants described herein above was outrageous and was
2 perpetrated with malice, fraud and oppression and with conscious disregard for Plaintiffs' rights
3 and with the intent, design and purpose of injuring Plaintiffs. Defendants, through their officers,
4 managing agents and/or supervisors, authorized, condoned and/or ratified the unlawful conduct
5 describe herein above. By reason thereof, Plaintiffs are entitled to an award of attorney fees and
6 punitive damages in an amount according to proof at time of trial.

7 **FACTS COMMON TO THE CFRA SUB-CLASS**

8 59. As described above, Nestle implements a policy called "no-fault" occurrence
9 penalties for various infractions by employees. These "occurrences" may be for alleged
10 tardiness, inadequate performance, insubordination, or any other number of reasons. Any
11 employee who receives more than eight occurrences is terminated.

12 60. Nestle further implements a policy of allowing a set number of sick days for each
13 employee each year they are employed. When employees exceed the number of allotted sick
14 days, they receive an "occurrence." This happens regardless of whether employees have
15 legitimate medical conditions, and provide doctors' notes for those conditions or disabilities.

16 61. Because of these policies, employees are unable to take more than the allotted
17 number of sick days without being subject to receiving "occurrences," themselves penalties, and
18 ultimately terminations. Likewise, too many "occurrences" can prevent employees from seeking
19 promotions, or other advancements in the company, such as its Emerging Leaders training
20 program. Accordingly, it interferes with employees' rights to take medical leave.

21 **FOURTH CAUSE OF ACTION BY THE CFRA SUB-CLASS**

22 **INTERFERENCE WITH CFRA RIGHTS**

23 **(Cal. Gov't Code § 12945.2)**

24 **(Against All Defendants)**

25 62. Plaintiffs incorporate paragraphs 1 through 60, as though set forth fully herein.

26 63. At all relevant times, Nestle was an employer covered by the California Family
27 Rights Act ("CFRA"), Cal. Gov't Code § 12945.2 *et seq.*, because it employed fifty or more full
28 time or part time employees.

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1 64. CFRA requires a covered employer to grant leave to an employee to care for their
2 own serious health conditions or to bond with a newborn. CFRA also requires the employer to
3 reinstate the employee to the same or a comparable job upon completion of the leave.

4 65. The conduct above alleged, namely citing CFRA Sub-Class members with “no-
5 fault occurrence” penalties for all leave taken beyond the allotted number of sick days Nestle
6 provides, and ultimately terminating Sub-Class members’ employment because of “occurrence”
7 limits incurred because of protected CFRA medical leave, constitutes interference with the
8 exercise of plaintiffs’ rights to take medical or family leave, in violation of Government Code §
9 12945.2.

10 66. Specifically, because Nestle penalized, and in some instances terminated,
11 employees who attempted to exercise their right to take protected leave, and refused to reinstate
12 employees after taking such leave to their previous positions, under the “no-fault occurrence”
13 policy, it violated the CFRA as to all members of the CFRA Sub-Class.

14 67. As a result of the wrongful conduct of all Defendants and each of them, plaintiffs
15 suffered damage, including but not limited to lost pay and benefits, loss of promotional
16 opportunities, terminations, and emotional distress, all in an amount within the jurisdiction of
17 this court.

18 68. As a proximate result of Defendant’s violations of the CFRA, Plaintiffs were
19 required to and did retain legal counsel, and are accordingly entitled to an award of attorney fees
20 in an amount according to proof.

21 69. The conduct of defendants and each of them was carried on in violation of *Civil*
22 *Code* § 3294 in that the conduct was carried on by defendants with a willful and conscious
23 disregard of the plaintiffs’ rights. Defendants conduct was oppressive in that it was despicable
24 conduct which subjected plaintiffs to cruel and unjust hardship in conscious disregard of their
25 rights. Therefore, Nestle is liable in punitive damages for the conduct of its officers.

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1 **FIFTH CAUSE OF ACTION**

2 **Unfair Competition**

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

4 **(By All Class Members Against All Defendants)**

5 70. Plaintiffs incorporate paragraphs 1 through 43, as though set forth fully herein.

6 71. Defendant's violations of the Employment Laws and Regulations as alleged
7 herein, including Defendant's race discrimination and interference with CFRA rights against the
8 Class Members, constitute unfair business practices in violation of California Business &
9 Professional Code Section 17200, *et seq.*

10 72. Defendant's violations of California anti-discrimination laws constitute a business
11 practice because it was done repeatedly, over a significant period of time, and in a systematic
12 manner to the detriment of Plaintiffs.

13 73. As a result of Defendant's unfair business practices, Defendant has reaped unfair
14 benefits and illegal profits at the expense of Plaintiffs, the Class Members, and members of the
15 public. Defendant should be made to restore such monies to Plaintiffs and the Class Members.

16 74. Defendant's unfair business practices entitle Plaintiffs to seek preliminary and
17 permanent injunctive relief, including but not limited to orders that Defendant account for and
18 restore to the Class Members the overtime compensation unlawfully withheld from them.

19 **PRAYER FOR RELIEF**

20 Wherefore, Plaintiffs pray for relief individually and on behalf of all others similarly situated as
21 follows:

- 22 1. For general damages in amounts according to proof and in no event in an amount less
23 than the jurisdictional limit of this court;
- 24 2. For punitive damages;
- 25 3. For restitution of all monies due to Plaintiffs from the unlawful business practices of
26 Defendants;
- 27 4. For pre-judgment and post-judgment interest as provided by law;
- 28

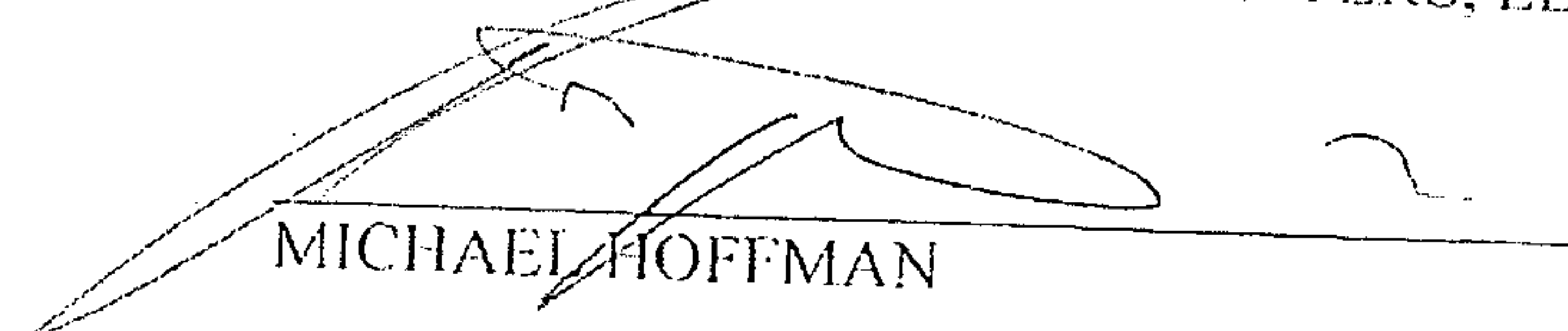
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- 5. For costs of suit incurred herein and attorneys' fees pursuant to Cal. Gov't Code § 12965, Civil Code § 1021.5, and other provisions of FEHA;
- 6. For such other and further relief as the Court deems fair and just.

Dated: December 29, 2010

Respectfully submitted,
HOFFMAN EMPLOYMENT LAWYERS, LLP


MICHAEL HOFFMAN
Attorney for Plaintiffs