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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

JESSICA JAHN WEBER and BRIAN  
KURTH, on their own behalf and on the behalf  
of all others similarly situated,

Plaintiffs,

v.

KASA DELIVERY, LLC,

Defendant.

No. 16-2-13761-0 SEA

**SECOND AMENDED CLASS  
ACTION COMPLAINT**

Plaintiffs Brian Kurth and Jessica Jahn Weber (“Plaintiffs”), individually and on behalf of all others similarly situated, by and through their attorneys of record, for their Complaint against Defendant Kasa Delivery, LLC (“Defendant”) hereby state and allege as follows:

**I. INTRODUCTION**

1.1 Defendant operates delivery services for restaurants in and around King County, Washington, including in Seattle, Washington.

1.2 Defendant engaged in a common scheme of wage and hour violations against its delivery employees. Defendant employs delivery drivers who use their own vehicles to deliver food and other food items to customers. Instead of compensating delivery drivers for the reasonably-approximate costs of the business use of their vehicles, Defendant uses a flawed

1 method to determine reimbursement rates that fail to accurately track the number of miles driven  
2 by delivery drivers and provides such an unreasonably low rate beneath any reasonable  
3 approximation of the expenses they incur that the drivers' unreimbursed expenses cause their  
4 wages to fall below the wage rate required by state and city minimum wage laws during some or  
5 all workweeks. In addition, Defendant has required drivers to share their tips with other  
6 employees who have little to no contact with customers and thus are not "customarily and  
7 regularly" tipped, in violation of wage and hour laws.  
8

9 1.3 Defendant imposes an automatic service charge on its customers. Defendant does  
10 not disclose the allocation of the service charge. The service charge is a separately designated  
11 amount collected by Defendant from its customers and is described in such a way that customers  
12 might reasonably believe that the amounts are for services provided by employees. Defendant  
13 does not make any direct payment of the service charge to its driver employees.  
14

15 1.4 Plaintiffs and Class members are current and former delivery employees of  
16 Defendant in the State of Washington who have been victimized by Defendant's unlawful  
17 practices. This lawsuit is brought as a class action under Washington wage laws to recover  
18 unpaid wages owed to Plaintiff and all other similarly situated employees.  
19

## 20 II. JURISDICTION AND VENUE

21 2.1 Venue is proper in King County because Plaintiffs Kurth and Weber have worked  
22 for Defendant in King County, where some of the violations alleged herein occurred. In addition,  
23 Defendant transacts business in King County and many of the acts, as well as the course of  
24 conduct alleged herein, occurred in King County.

25 2.2 Defendant is within the jurisdiction of this Court. Defendant conducts business in  
26 the State of Washington and have operations in Washington State, including within the City of

1 Seattle and King County. Defendant had obtained the benefits of the laws of the State of  
2 Washington and the Washington labor market.

### 3 III. PARTIES

4 3.1 Defendant is a Minnesota limited liability company.

5 3.2 Plaintiffs Kurth and Weber have been employed by Defendant as a delivery  
6 drivers within the last three years. Plaintiffs Weber and Kurth have been residents of Washington  
7 for the duration of their employment. Plaintiff Weber has worked in Seattle and King County  
8 for Defendant on a regular basis. Plaintiff Kurth has worked for Defendant in Bellevue, Seattle  
9 and King County, Washington.  
10

### 11 IV. CLASS ACTION ALLEGATIONS

12 4.1 Plaintiffs bring this case as a class action pursuant to Civil Rule 23(b)(3) on behalf  
13 of a class consisting of:  
14

15 All individuals employed by Defendant as delivery drivers of motor  
16 vehicles in the State of Washington at any time from three years prior to  
17 the filing of this complaint through the date of final disposition of this  
18 action.

19 Excluded from this Class is Defendant, any entity in which Defendant has a controlling  
20 interest or which have controlling interest in Defendant, and Defendant's legal representatives,  
21 assignees and successors. Also excluded are any judges to whom this case is assigned and any  
22 member of an assigned judge's immediate family.

23 4.2 Plaintiffs believe there are at least 120 current and former employees in the Class.

24 4.3 Plaintiffs' claims are typical of the claims of the members of the Class because  
25 Plaintiffs are delivery drivers who, like the members of the Class, sustained damages arising out  
26 of Defendant's common course of wage and hour violations.

1           4.4     Plaintiffs will fairly and adequately protect the interests of the Class members.  
2 Plaintiffs have retained counsel competent and experienced in complex class action litigation,  
3 including employment law.

4           4.5     Common questions of law and fact exist as to Plaintiffs and all members of the  
5 Class and predominate over any questions solely affecting individual members of the Class.  
6 Among the questions of law and fact common to the Plaintiffs and the Class are:

7                   a. Whether Defendant engaged in a common course of failing to reasonably  
8 approximate and pay vehicle expenses to Plaintiffs and Class members;

9                   b. Whether Defendant engaged in a common course of failing to pay Plaintiffs and  
10 Class members the minimum wage required by Washington and the City of Seattle minimum  
11 wage laws;

12                   c. Whether Defendant engaged in a common course of requiring Plaintiffs and Class  
13 members to kick back a portion of their wages to Defendant;

14                   d. Whether Defendant engaged in a common course of requiring Plaintiffs and Class  
15 members to share their tips with other employees who are not customarily and regularly tipped;

16                   e. Whether Defendant's conduct, above, was willful;

17                   f. Whether Defendant violated RCW 49.46.020 as to Plaintiffs and Class members;

18                   g. Whether Defendant violated RCW 49.46.090 as to Plaintiffs and Class members;

19                   h. Whether Defendant violated RCW 49.48.030 as to Plaintiffs and Class members;

20                   i. Whether Defendant violated RCW 49.52.050 as to Plaintiffs and Class members;

21                   j. Whether Defendant violated RCW 49.52.070 as to Plaintiffs and Class members;

22                   k. Whether Defendant violated RCW 49.46.160 as to Plaintiffs and Class members;

23                   and  
24  
25  
26

1 1. The nature and extent of class-wide injury and the measure of compensation for  
2 such injury.

3 4.6 Class action treatment is superior to the alternative for the fair and efficient  
4 adjudication of the controversy alleged herein. Such treatment will permit a large number of  
5 similarly situated persons to prosecute their modest, purely economic, common claims in a single  
6 forum simultaneously, efficiently and without duplication of effort and expense that numerous  
7 individual actions would entail. No difficulties are likely to be encountered in the management  
8 of this class action that would preclude its maintenance as a class action, and no superior  
9 alternative exists for the fair and efficient adjudication of this controversy. The Class is readily  
10 identifiable from Defendant's records.  
11

12 4.7 A class action is superior to other available methods for the fair and efficient  
13 adjudication of this controversy since joinder of all matters is impractical. Furthermore, the  
14 amounts at stake for many Class members, while substantial to them, are not great enough to hire  
15 an attorney to prosecute individual suits against Defendant.  
16

## 17 V. SUMMARY OF ALLEGATIONS

18 5.1 Beginning at a date currently unknown to Plaintiffs, but at least as early as  
19 December 2015, Defendant committed, and continues to commit, acts of wage abuse against its  
20 delivery employees, including but not limited to willfully failing to pay them the minimum wage  
21 required by the minimum wage laws of Washington and the City of Seattle and requiring them  
22 to kick back a portion of their wages to Defendant and to other employees.  
23

24 5.2 Defendant is in the business of delivering food and food items from various  
25 restaurants to Defendant's customers within the City of Seattle and King County. The customers  
26 place an order for food and food items through Defendant and identify a delivery address.

1 Defendant's delivery drivers deliver the order to the delivery address. Defendant charges a  
2 delivery fee for the service. Defendant does not allocate any portion of this fee to the drivers.

3 5.3 Defendant also imposes a mandatory charge titled "Other Taxes and Fees."  
4 Defendant's stated purpose of other "Taxes and Fees" is to "To take care of our drivers, we've  
5 chosen to make them employees while others use Independent Contractors (which allows  
6 companies to avoid paying minimum wage, overtime, unemployment insurance, workers'  
7 compensation, payroll tax, mileage reimbursements & providing healthcare) - Other Taxes &  
8 Fees simply allows us to afford the expenses associated with employee status, business &  
9 occupation tax and litter tax." As such, it is a service charge under RCW 49.60.160. Defendant  
10 does not disclose how the charge is allocated. Drivers are not directly paid any portion of the  
11 charge.  
12

13 5.4 Delivery drivers have the same primary job duty—to deliver food and other food  
14 items to customers' addresses.

15 5.5 Defendant provides customers the opportunity to tip employees for the delivery  
16 service. Customers regularly provide tips for the delivery services they receive. Customers  
17 generally only interact with Defendant's drivers and no other employees of Defendant. However,  
18 Defendant requires drivers to share these tips with dispatcher employees, who work in Minnesota  
19 and rarely have contact with Defendant's customers or otherwise engage in customer service  
20 functions. Dispatchers are thus not customarily and regularly tipped employees. Customer tips  
21 are also required to be shared with "the Squadron members responsible for routing orders,  
22 customer service, restaurant/driver support and acquisition, & the systems that make the magic  
23 happen behind the scenes." Additionally, Defendant has failed to provide a written notice to  
24  
25  
26 Plaintiffs and other drivers that they are required to share their tips in this manner.

1           5.6     Taking into account the effect of Defendant's reimbursement policy that applies  
2 to Plaintiffs and all class members, Defendant has paid Plaintiffs and members of the Class an  
3 hourly wage below the applicable minimum wage in the State of Washington and the City of  
4 Seattle.

5                                   ***Defendant's Flawed Reimbursement Policy***

6           5.7     Plaintiffs and members of the Class have delivered food and other food items to  
7 Defendant's customers in motor vehicles that Plaintiffs and Class members own and maintain.  
8 Defendant has required Plaintiffs and the Class members to maintain these vehicles in a safe,  
9 legally-operable, and insured condition to use in delivering the food and food items to  
10 Defendant's customers.  
11

12           5.8     Plaintiffs and members of the Class have incurred costs for gasoline, vehicle parts  
13 and fluids, vehicle repair and maintenance services, vehicle insurance, taxes, licenses,  
14 depreciation and finance charges ("vehicle expenses") while delivering food and food items for  
15 the primary benefit of Defendant.  
16

17           5.9     Plaintiffs and members of the Class have been subject to similar driving  
18 conditions, vehicle expenses, delivery distances, and delivery frequencies.

19           5.10    Plaintiffs and members of the Class have been subject to the same pay policies  
20 and practices of Defendant. Specifically, they have been subject to the same delivery driver  
21 reimbursement policy, which has been \$1.00 per delivery from December 2015 to the present,  
22 which underestimates vehicle expenses per mile and fails to accurately track miles per delivery.  
23

24           5.11    Despite the relative ease of tracking actual miles driven by its drivers, Defendant  
25 does not do so. Instead, Defendant reimburses delivery drivers a set amount per delivery,  
26 regardless of length.

1           5.12 Defendant's reimbursement rate does not take into consideration the actual miles  
2 driven nor actual expenses incurred by drivers in order to maintain and provide vehicles that are  
3 safe, legally operable, and insured, in the course of their delivering items to customers on behalf  
4 of and for the primary benefit of Defendant.

5           5.13 Throughout her employment with Defendant, Plaintiff Weber has experienced an  
6 average delivery distance of approximately nine (9) miles.

7           5.14 The net result of Defendant's delivery driver reimbursement policy is  
8 reimbursement of approximately \$.11 per mile (\$1.00 per delivery / 9 miles), which is well below  
9 any reasonable approximation of the vehicle expenses of Defendant's delivery drivers.  
10

11           5.15 During the applicable limitations period, the IRS business mileage reimbursement  
12 rate has ranged between \$.54 and \$.575 per mile. Reputable companies that study the cost of  
13 owning and operating a motor vehicle and/or reasonable reimbursement rates, including the  
14 American Automobile Association ("AAA"), have determined that the average cost of owning  
15 and operating a vehicle has ranged between \$.37 and \$.975 per mile during the same period.  
16 These figures represent a reasonable approximation of the average cost of owning and operating  
17 a vehicle for personal use of the vehicle.  
18

19           5.16 The driving conditions associated with the food delivery business result in more  
20 frequent routine maintenance costs, higher repair costs, and more rapid depreciation due to the  
21 mileage and manner of driving for food delivery, including frequent starting and stopping of the  
22 engine, frequent braking, driving short routes as opposed to highway driving, and driving under  
23 time pressures. Defendant's delivery drivers thus experience lower gas mileage and higher repair  
24 costs than factored into the IRS' and AAA's average cost of owning and operating a vehicle.  
25  
26



1           5.17 Insurance providers recognize the relative hazards of working as a food delivery  
2 driver. Food delivery drivers pay significantly higher vehicle insurance rates than do regular  
3 drivers, as personal auto insurance policies generally do not cover drivers while they are on the  
4 job and delivery drivers are considered especially high-risk.

5           5.18 Defendant's reimbursement policy does not reimburse its delivery drivers for  
6 even their out-of-pocket expenses, much less other costs they incur to own and operate their  
7 vehicles, and thus Defendant uniformly fails to reimburse its delivery drivers at any reasonable  
8 approximation of the cost of owning and operating their vehicles for Defendant's benefit.  
9

10           ***Defendant's Failure to Reimburse Vehicle Expenses Violates Wage Laws***

11           5.19 Before taking into account the effect of Defendant's reimbursement policy,  
12 Defendant has paid Plaintiff Weber at or just under the City of Seattle minimum wage since  
13 December 2015: from December 2015 to January 16, 2016, Defendant paid her \$10.00 per hour;  
14 from January 17, 2016 to the present, Defendant paid her \$10.50 per hour. Washington State's  
15 minimum wage during this period has been \$9.47 per hour.  
16

17           5.20 Plaintiff Weber drives a 2009 Toyota Prius and drove a 2008 Chevy Trailblazer  
18 delivering food for Defendant during times relevant to this action. She also delivered food using  
19 Defendant's e-bikes for a portion of her employment.

20           5.21 During Plaintiff Weber's employment with Defendant, Defendant's  
21 reimbursement rate has been a straight \$1.00 per delivery amount when drivers use their own  
22 motor vehicles to make deliveries on behalf of Defendant, regardless of the amount driven.  
23

24           5.22 During Plaintiff Weber's employment with Defendant, Plaintiff Weber has  
25 experienced an average delivery distance of approximately nine (9) miles when driving her motor  
26 vehicles.

1           5.23    Thus, since December 2015, Defendant's average reimbursement rate for Plaintiff  
2 Weber has been approximately \$.11 per mile (\$1.00 per delivery / 9 miles per delivery).

3           5.24    During this same time period, the IRS business mileage reimbursement rate has  
4 ranged between \$.54 and \$.575 per mile, which was a reasonable approximation of the vehicle  
5 expenses incurred in personal use of a vehicle, but is a low estimate of the vehicle expenses  
6 incurred in delivering food in King County. Using the IRS rate as a conservative approximation  
7 of Plaintiff Weber's vehicle expenses during her employment to date, every mile driven on the  
8 job decreased Plaintiff's net wages by approximately \$.43 (\$.54 (IRS rate) - \$.11 (Defendant's  
9 rate)) at a minimum, to at least \$.465 (\$.575 - \$.11), or between approximately \$3.87 per delivery  
10 (\$.43 x 9 miles) and \$4.185 per delivery (\$.465 x 9 miles).

11           5.25    Defendant did not ask Plaintiff Weber to track her actual vehicle expenses.  
12 However, an initial estimate indicates that Plaintiff Weber's vehicle expenses, not taking fully  
13 into account the additional costs when using her vehicle for food delivery, have been at the very  
14 least \$.41 per mile. Using even this extremely conservative measure of Plaintiff Weber's actual  
15 expenses, as opposed to the IRS rate or other widely-accepted mileage rates, every mile driven  
16 on the job decreased her net wages by between about \$.30 (\$.41 - \$.11), and every delivery  
17 decreased her net wages by about \$2.70 (\$.30 x 9 miles).

18           5.26    During Plaintiff Weber's employment with Defendant to date, Plaintiff Weber has  
19 worked approximately four hundred and fifty (450) hours making deliveries in her Prius and/or  
20 Trailblazer. During Plaintiff Weber's employment with Defendant to date, Plaintiff Weber has  
21 delivered approximately 863 orders using her Trailblazer and/or Prius. Thus, Plaintiff Weber has  
22 averaged 1.92 deliveries per hour using her Prius and/or Trailblazer. Plaintiff Weber's frequency  
23  
24  
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26

1 of delivery during this time period is a reasonable estimate of the frequency at which Defendant's  
2 other drivers make deliveries.

3 5.27 Thus, during the time period relevant to this action, depending on whether  
4 Defendant's reimbursement rate is compared to the IRS rate or to a very conservative estimate of  
5 Plaintiff Weber's actual expenses, Plaintiff Weber "kicked back" to Defendant between  
6 approximately \$5.16 per hour (\$2.70 per delivery x 1.92 deliveries per hour) and \$8.04 per hour  
7 (\$4.185 per delivery x 1.92 deliveries per hour). Because Defendant has otherwise been paying  
8 Plaintiff Weber at or just under Seattle's minimum wage, and just above Washington's minimum  
9 wage, these kickbacks have resulted in Defendant compensating Plaintiff Weber between  
10 approximately \$5.16 per hour to \$8.54 per hour less than the City of Seattle's minimum wage,  
11 and \$4.13 per hour to \$7.01 per hour less than Washington state's minimum wage. This kickback  
12 resulted in an effective hourly wage rate between approximately \$1.96 and \$4.84 in 2015 to  
13 January 16, 2016 and \$2.46 and \$5.34 from January 17, 2016 to the present.  
14

15 5.28 During some workweeks, Plaintiff Weber has worked in excess of forty (40) hours  
16 per week for Defendant making deliveries. Defendant has paid Plaintiff Weber on an hourly  
17 basis, including time and a half for the work she performs in excess of forty (40) hours per  
18 workweek.  
19

20 5.29 However, the effect of Defendant's reimbursement policy, as set forth above, has  
21 also caused Plaintiff Weber to earn less than the statutory minimum wage rate for work she  
22 performs in excess of (40) hours per week. For example, in early January 2016, Defendant paid  
23 Plaintiff Weber \$15.00 per hour for the work she performed in excess of (40) forty hours in the  
24 workweek (which is actually below Seattle's minimum wage for overtime work at the time  
25 (\$15.75 per hour), regardless of the kickbacks from Defendant's reimbursement policy). As set  
26

1 forth above, during this time frame, Defendant received kickbacks from Plaintiff Weber that  
2 reduced her wages by approximately \$5.16 to \$8.04 per hour. Here, Plaintiff Weber therefore  
3 only received \$6.96 per hour to \$11.06 per hour for her overtime work, when Seattle required a  
4 minimum overtime wage rate of \$15.75 per hour and Washington State required \$14.21 per hour.

5         5.30 Under Washington law, employers may not use tips as credit towards minimum  
6 wages owed to an employee. In addition, under wage and hour laws, once a tip is earned, it is the  
7 property of that employee and it is not to be shared with other employees who are not “regularly  
8 and customarily” tipped. Here, customers tip drivers who are generally the only employees of  
9 Defendant with whom they interact. Yet, Defendant deducts a portion of drivers’ tips to dispatch  
10 employees, who do not generally have contact with the customers. Additionally, Defendant has  
11 failed to provide a written notice of its proposed tip pool to Plaintiffs and the drivers.  
12

13         5.31 Upon information and belief, all of Defendant's other delivery drivers have had  
14 similar experiences to those of Plaintiff Weber. They were subject to the same reimbursement  
15 and tip pool policies; received similar reimbursements; incurred similar vehicle expenses;  
16 completed deliveries of similar distances and at similar frequencies; and, because of this, were  
17 paid hourly wages below the applicable state or city minimum wage and were required to kick  
18 back a portion of their wages to employees who are not “regularly and customarily” tipped.  
19

20         5.32 Based on the allegations set forth above, Defendant’s systematic under-  
21 reimbursement of vehicle expenses over the prior three (3) years has resulted in company-wide  
22 minimum wage violations under both state and local laws.  
23

24         5.33 Upon information and belief, Defendant has been on notice that its reimbursement  
25 and tip pooling policies are unlawful.  
26

1           5.34   Based on the effect of Defendant’s flawed reimbursement policy, Plaintiffs and  
2 members of the Class have been paid an hourly wage below the applicable state and Seattle  
3 minimum wage; they have thereby been systematically deprived of reasonably-approximate  
4 reimbursements, resulting in their wages falling below the state and city minimum wage in some  
5 or all workweeks.

6           5.35   Plaintiffs and members of the Class have experienced under-reimbursements for  
7 vehicle expenses, which have reduced their wages below the minimum wage rate of the State of  
8 Washington and the City of Seattle.

9  
10           ***Further Evidence of Defendant’s “Kickback” of Delivery Drivers’ Wages***

11           5.36   Delivery drivers are required to use their personal cell phones to access order  
12 information from Defendant’s customers in order to pick up and deliver food orders. They are  
13 also frequently required to use their phones to contact customers to complete deliveries. For  
14 example, if the driver has to access a secure location that requires the customer to provide the  
15 driver access when the driver arrives at a locked gate or door. Although usage of drivers’ personal  
16 cell phones is required for the benefit of Defendant, Defendant only reimburses drivers  
17 approximately \$.04 per hour for the use of their cell phones. Upon information and belief this  
18 does not reasonably-approximate reimburse the drivers for the actual cost of using their cell  
19 phones during work for the benefit of Defendant.  
20

21           5.37   RCW 49.12.450 and Washington Department of Labor and Industries Admin.  
22 Policy ES.C.8.1 require employers to pay the cost of employees’ uniforms. However, Defendant  
23 automatically deducts \$25.00 from drivers’ initial wages for the cost of the uniforms Defendant  
24 requires them to wear during their shifts.  
25  
26

1 5.38 RCW 49.46.160 applies to employers who impose an automatic service charge  
2 related to food, beverages, or portage provided to customers. Such employers are required to  
3 disclose in an itemized receipt and in any menu provided to the customer the percentage of the  
4 automatic service charge that is paid or payable directly to the employee serving the customer.  
5 Defendant imposes a delivery fee charge, which ranges depending on the length of the delivery,  
6 on their customers. Plaintiff and members of the Class do not receive any portion of the service  
7 charge.  
8

## 9 VI. FIRST CLAIM FOR RELIEF

### 10 (Payment of Wages Less Than Entitled: RCW 49.46, *et seq.*, Seattle Municipal Code 11 (SMC) 14.19 *et seq.*, & SMC 14.20 *et seq.*)

12 6.1 Plaintiffs reallege and incorporates by reference each and every allegation set  
13 forth in the preceding paragraphs.

14 6.2 RCW 49.46.120 establishes Washington State's minimum wage and provides for  
15 enforcement of more favorable minimum wages that may be established by federal, state, or local  
16 law or ordinance

17 6.3 By the actions alleged above, Defendant has failed to pay Plaintiffs and Class  
18 members prevailing minimum wage pursuant to RCW 49.46 *et seq.*, SMC 14.19 *et seq.*, and  
19 SMC 14.20 *et seq.*

20 6.4 By the actions alleged above, Defendant has violated the provisions of RCW  
21 49.46.020, RCW 49.46.090, RCW 49.46.120, RCW 49.46.130, SMC 14.19 *et seq.*, and SMC  
22 14.20 *et seq.*

23 6.5 As a result of the unlawful acts of Defendant, Plaintiffs and Class members have  
24 been deprived of compensation in amounts to be determined at trial, and pursuant to RCW  
25 49.46.090, SMC 14.19.110, and SMC 14.20.090, are entitled to recover such amounts, including  
26

1 interest thereon, and attorneys' fees and costs (and further including liquidated damages under  
2 SMC 14.19.110 and SMC 14.20.090).

3  
4 **VII. THIRD CLAIM FOR RELIEF**

5 **(Failure to Pay All Service Charges and Tips)**

6 7.1 Plaintiffs reallege and incorporates by reference each and every allegation set  
7 forth in the preceding paragraphs.

8 7.2 RCW 49.46.160 provides that any employer that imposes an automatic service  
9 charge related to food, beverages, entertainment, or portorage provided to a customer must  
10 disclose in an itemized receipt and in any menu provided to the customer the percentage of the  
11 automatic service charge that is paid or is payable directly to the employee or employees serving  
12 the customer.  
13

14 7.3 Defendant failed to make any such disclosure.

15 7.4 Defendant failed to directly pay its employees any of the imposed service charge.

16 7.5 As such, based on the above allegations, Defendant violated the provisions of  
17 RCW 49.46.160.

18 7.6 As a result of the unlawful acts of Defendant, Plaintiffs and the Class have been  
19 deprived of compensation in amounts to be determined at trial.  
20

21 **VIII. THIRD CLAIM FOR RELIEF**

22 **(Willful Refusal to Pay Wages: RCW 49.52.050)**

23  
24 8.1 Plaintiffs reallege and incorporates by reference each and every allegation set  
25 forth in the preceding paragraphs.  
26

1           8.2     RCW 49.52.050(2) provides that any employer who “willfully and with intent to  
2 deprive the employee of any part of their wages, pays any employee a lower wage than the wage  
3 such employer is obligated to pay such employee by any statute, ordinance, or contract” is guilty  
4 of a misdemeanor.

5           8.3     RCW 49.52.070 provides that any employer who violates the foregoing statute  
6 shall be liable in a civil action for twice the amount of wages withheld, together with costs of suit  
7 and reasonable attorneys’ fees.

8           8.4     The alleged unlawful actions by Defendant against Plaintiffs and Class members,  
9 as set forth above, were committed willfully and with intent to deprive Plaintiffs and Class  
10 members of part of their wages.  
11

12           8.5     As such, based on the above allegations, Defendant violated the provisions of  
13 RCW 49.52.050.

14           8.6     As a result of the unlawful acts of Defendant, Plaintiffs and the Class have been  
15 deprived of compensation in amounts to be determined at trial, and pursuant to RCW 49.52.070  
16 are entitled to recovery of twice such amounts, including interest thereon, and attorneys’ fees and  
17 costs.  
18

### 19                                   **IX.     PRAYER FOR RELIEF**

20           Wherefore, Plaintiffs, on their own behalf and on behalf of the members of the Class,  
21 prays for judgment against Defendant as follows:

- 22           A.     Certify the proposed Class;  
23           B.     Appoint Plaintiffs as Class representative;  
24           C.     Appoint the undersigned attorneys as Class counsel;  
25



1 D. Declare that the actions complained of herein violate Washington's statutes,  
2 Seattle's ordinances, and administrative codes;

3 E. Award Plaintiffs and Class members compensatory, liquidated, and exemplary  
4 damages;

5 F. Award attorneys' fees and costs to Plaintiffs' attorneys, as allowed by law;

6 G. Award pre-judgment and post-judgment interest to Plaintiffs and Class members,  
7 as provided by law;

8 H. Grant and injunction against Defendant from engaging in the unlawful and  
9 wrongful conduct set forth herein; and,  
10

11 I. Grant such other and further relief as this Court deems necessary.

12 DATED this 10<sup>th</sup> day of June, 2016.  
13

14 **REKHI & WOLK, P.S.**

15 By: s/ Gregory A. Wolk

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25  
26