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

9 MONICA JIMENEZ, on her own behalf and on  
10 the behalf of all others similarly situated,

11 Plaintiff,

12 v.

13 TTB HOLDINGS, LLC, a Washington LLC, and  
14 KI WON JEON, individually and the marital  
community composed of Ki Won Jeon and  
spouse,

15 Defendants.

NO.

**CLASS ACTION COMPLAINT**

16 Plaintiff MONICA JIMENEZ (“Plaintiff”), individually and on behalf of all others  
17 similarly situated, by and through her attorneys of record, for her complaint against Defendants  
18 TTB Holdings, LLC and Ki Won Jeon (“Defendants”) hereby states and alleges as follows:

19 **I. INTRODUCTION**

20 Plaintiff brings this action on behalf of herself and those similarly situated against  
21 Defendants to recover unpaid wages, including unpaid overtime wages, exemplary damages,  
22 interest, and attorneys’ fees and costs. Plaintiff seeks to redress the unlawful effects of  
23 Defendants’ policies and practices of failing to compensate its employees who are non-exempt  
from Washington’s overtime requirements for missed and interrupted rest and break periods, and

1 for failing to pay for all hours worked. Such policies and practices, as alleged below, all violate  
2 Washington law. Plaintiff brings this action to remedy Defendants' willful violations of  
3 Washington wage laws against its employees who are not exempt from overtime.

## 4 **II. PARTIES**

5 2.1 Plaintiff Jimenez is an individual residing in Renton, Washington. Plaintiff  
6 worked for Defendants in Tacoma, Washington in July 2021. Plaintiff was an hourly paid, non-  
7 exempt from overtime Washington employee of Defendants who was employed by Defendants  
8 within three years of the date of this complaint.

9 2.2 Defendant TTB Holdings, LLC is a Washington LLC that owns and operates at  
10 least three retail stores doing business as Top to Bottom, including two stores in Pierce County  
11 and one store in King County. Defendant TTB Holdings, LLC has employed Plaintiff and the  
12 proposed class members in King and Pierce Counties.

13 2.3 2.3 Defendant Ki Won Jeon is a member and owner of Defendant TTB  
14 Holdings, LLC, which employed Plaintiff and the proposed Class in King and Pierce Counties,  
15 Washington. Upon information and belief, Defendant Ki Won Jeon resides in King County,  
16 Washington. On information and belief, Defendant Ki Won Jeon was an "employer" of Plaintiff  
17 and the proposed Class as defined by the wage laws at issue here.

18 2.4 On information and belief, all of Defendant Ki Won Jeon's alleged acts were done  
19 in pursuit of financial gain, or livelihood, for himself individually and on behalf of and for the  
20 benefit of his marital community

## 21 **III. JURISDICTION AND VENUE**

22 3.1 Jurisdiction and venue are proper as the alleged acts occurred in Pierce and King  
23 Counties, Washington, and all parties have availed themselves of the laws of Washington state.

1 The claims asserted in this complaint are brought solely under state law causes of action and are  
2 governed exclusively by Washington law. Defendants operate and transact business in King  
3 County and some of the specific acts alleged herein occurred in King County.

4 3.2 Defendants are citizens of Washington for purposes of the Class Action Fairness  
5 Act. Federal jurisdiction is inappropriate under the Class Action Fairness Act because of  
6 Defendants' Washington citizenship and two-thirds or more of the members of the proposed  
7 plaintiff Class in the aggregate are citizens of Washington.

#### 8 IV. FACTS

9 4.1 Defendants operate and own three retail clothing stores in King and Pierce  
10 Counties in Washington State. The stores do business and are known as "Top to Bottom" (TTB  
11 Stores").

12 4.2 Defendants have employed Washington residents, including Plaintiff, to staff  
13 their TTB Stores.

14 4.3 Washington law requires Defendants to (1) accurately track the number of hours  
15 its non-exempt employees work and (2) pay its non-exempt employees for all hours worked.  
16 Defendant uses a paper punch in and out timekeeping system.

17 4.4 Defendants require proposed Class members to use its timekeeping system to  
18 track the start and end of their shifts, as well as their meal and rest breaks during their shifts.

19 4.5 Plaintiff and other proposed Class members have generally been scheduled to  
20 work 10.5 hour shifts per day and are only authorized to take one unpaid meal period and one  
21 fifteen-minute rest break during their shifts.

22 4.6 Defendants require proposed Class members to remain near their respective TTB  
23 Stores to respond to customer needs while purportedly taking meal and rest breaks.

1           4.7     Defendants require proposed Class members to be available for calls during break  
2 times, including carrying and answering headsets at all times.

3           4.8     Defendants' supervisors and staff have routinely interrupted Plaintiff's purported  
4 meal and rest breaks to return to the store to perform work during such breaks. Plaintiff was  
5 required to remain off the clock when performing such work and her break times were not  
6 extended to accommodate these interruptions. On information and belief, this was and remains a  
7 policy and practice common to all proposed Class members.

8           4.9     Plaintiff and other proposed Class members are not compensated for their meal  
9 and rest breaks when they are interrupted.

10          4.10    Plaintiff and other proposed Class members consistently missed and continue to  
11 miss breaks required by WAC 296-126-092. Contrary to state law, such non-exempt employees  
12 are not compensated for missed or interrupted breaks.

13          4.11    Defendants require Plaintiff and proposed Class members to clock in 5-10 minutes  
14 before their scheduled shift time begins. If they fail to clock in 5 minutes before their shift begins,  
15 they are warned. If they fail to clock in before the shift begins, they are disciplined for being late.  
16 Defendants' practice was to round up the clock in time for these employees when calculating  
17 their compensable work hours. For example, when a TTB non-exempt employee clocks in at 8:53  
18 a.m. for a shift scheduled at 9:00 a.m., Defendants would round up and calculate that this  
19 employee started working at 9:00 a.m., accordingly denying the employee 7 minutes of  
20 compensable work time.

21          4.12    In contrast, at the end of their scheduled shifts, routinely at 8:00 p.m., Defendants'  
22 practice was for one staff person to clock out all the other non-exempt staff at that store at that  
23 time. However, Defendants require Plaintiff and the proposed Class members to remain on site

1 in the store until certain tasks are completed. Once these tasks are completed, Defendants'  
2 manager would allow Plaintiff and the proposed Class members to leave the TTB Stores.  
3 Plaintiffs and proposed Class members are not compensated for the time they are required to  
4 remain on site after they are clocked out.

5 4.13 In theory, Defendants would round up a proposed Class member's time if s/he  
6 clocked out up to 10 minutes after the scheduled shift, to reflect Defendants' practice of rounding  
7 up a proposed Class member's time when s/he clocked in 10 minutes or less before their shift. In  
8 practice however, Defendants' policy subjects proposed Class members to written discipline for  
9 having even clocked in one minute late. Likewise, Defendants' check out policy does not allow  
10 for rounding, but instead requires Class members to remain at the store even after they are  
11 clocked out. This makes it very difficult, if not impossible, for such employees to have their  
12 compensable time rounded in a manner that is not beneficial just to Defendants and detrimental  
13 to themselves. Therefore, Defendants' time rounding practices are not neutral.

14 4.14 Defendants prohibited and/or discouraged Plaintiff to clock out after the end of  
15 her scheduled shift. On information and belief, this was a policy and practice common to all  
16 proposed Class members.

17 4.15 Defendants' policy penalized Plaintiff if they clocked in even one minute after the  
18 start of their shift according to Defendants' tardy policy. On information and belief, this was a  
19 policy and practice common to all proposed Class members.

## 20 V. CLASS ALLEGATIONS

21 5.1 Plaintiff brings this case as a class action pursuant to Washington Civil Rule 23  
22 on behalf of the following Class:  
23

1 All Washington citizens who, at any time from three years prior to the  
2 filing of this Complaint through to 90 days before the trial date, worked  
3 for Defendants at their Top to Bottom retail stores and who were paid on  
4 an hourly basis.

5 Excluded from the Class are any entity in which Defendants have a controlling interest or that  
6 has a controlling interest in Defendants, and Defendants' legal representatives, assignees, and  
7 successors. Also excluded are the judge to whom this case is assigned and any member of the  
8 judge's immediate family.

9 5.2 Commonality: As enumerated above, Defendants engaged in common acts,  
10 practices and policies that violated the Plaintiff's and proposed Class members' rights under  
11 Washington state wage and hour laws. Accordingly, Plaintiff seeks certification of the proposed  
12 Class under CR 23.

13 5.3 Plaintiff's claims meet the requirements for certification. There is a well-defined  
14 community of interest in the litigation and the proposed Class members are readily  
15 ascertainable through Defendants' employment records.

16 a. Numerosity: The proposed Class is so numerous that joinder of all proposed  
17 Class members is infeasible and impractical. The membership of the proposed Class is  
18 unknown to Plaintiff at this time. However, based on Plaintiffs' investigation, and on  
19 information and belief, the number of proposed Class members is reasonably estimated to  
20 exceed 40.

21 b. Typicality: Plaintiff's claims are typical of the proposed Class.

22 1. Plaintiff was an hourly, nonexempt employee Defendants employed  
23 Plaintiff at both of their Tacoma TTB Stores in July 2021.

2. Plaintiff's claims stem from the same practices or course of conduct that  
form the basis of the class claims.

1                   3.     All of the proposed Class members' claims are based on the same facts  
2 and legal theories.

3                   4.     There is no antagonism between Plaintiff's interests and the proposed  
4 Class members because their claims are for damages provided to each individual employee by  
5 statute.

6                   5.     The injuries that Plaintiff suffered are similar to the injuries that the  
7 proposed Class members suffered and continue to suffer, and they are relatively small  
8 compared to the expenses and burden of individual prosecutions of this litigation.

9           c.     Adequacy: Plaintiff will fairly and adequately protect the interests of the  
10 proposed Class because:

11                   1.     There is no conflict between Plaintiff's claims and those of the proposed  
12 Class members.

13                   2.     Plaintiff acknowledges that she has an obligation to make known to the  
14 Court any relationship, conflicts or differences with any proposed Class member.

15                   3.     Plaintiff agrees to actively participate in the case and protect the interests  
16 of the proposed Class members.

17                   4.     Plaintiff has retained counsel experienced in handling wage-and-hour  
18 class actions who have already devoted substantial time and resources to investigating the  
19 proposed Class members' claims and who will vigorously prosecute this litigation.

20                   5.     Plaintiff's claims are typical of the claims of proposed Class members in  
21 that her claims stem from the same practice and course of conduct that forms the basis of the  
22 class claims.

1 d. Superiority: Class action adjudication is superior to other methods of  
2 adjudication for at least the following reasons:

3 1. The common questions of law and fact described below predominate  
4 over questions affecting only individual members, and the questions affecting individuals  
5 primarily involve calculations of individual damages.

6 2. There is no antagonism between Plaintiff's interests and the proposed  
7 Class members, because their claims are for damages provided by statute.

8 f. Public Policy Considerations: Certain employers in Washington regularly  
9 violate wage and hour and other employment laws. The value of individual and employee  
10 claims is often small as compared with the relative cost of litigation. Current employees are  
11 often afraid to assert their rights out of fear of retaliation. Class actions provide Class Members  
12 who are not named in the Complaint with a type of anonymity that allows for the vindication of  
13 their rights, while at the same time, protection of their privacy.

14 g. Predominance: There are questions of law and fact common to the proposed  
15 Class members, which predominate over any issues involving only individual class members,  
16 including but not limited to:

17 1. Whether Defendants have a practice of failing to pay proposed Class  
18 members for missed or interrupted meal and rest breaks;

19 2. Whether Defendants have a policy or practice of requiring proposed Class  
20 members to remain at or near the work premises and to be on call and available to respond to  
21 customer needs during their breaks;

22 3. Whether proposed Class members are frequently interrupted during their  
23 breaks and required to work while remaining off the clock;

1                   4.     Whether proposed Class members were paid for all time worked;

2                   5.     Whether proposed Class members were not paid the required time and  
3 one-half the regular rate of pay for all hours worked over 40 hours as a result of missed meal and  
4 rest periods and other work in violation of Washington law;

5                   6.     Whether Defendants failed to promptly pay all wages due to Plaintiff and  
6 other proposed Class members who are former employees upon discharge or resignation of their  
7 employment; and,

8                   7.     Whether Defendants' conduct was willful.

9                                   **VI. FIRST CAUSE OF ACTION**  
10                                  **(Failure to Pay Wages Owed in Violation of Washington Law)**

11                  6.1     Plaintiff realleges the above paragraphs of the Complaint and thereby incorporate  
12 the same by reference.

13                  6.2     Defendants' practice of failing to provide or pay Plaintiff and the proposed Class  
14 for all breaks deprived them of pay for all straight time and overtime hours actually worked, in  
15 violation of Washington law, including RCW 49.12 *et seq.*, RCW 49.46.020, RCW 49.46.090,  
16 RCW 49.46.130, RCW 49.52.050 and WAC 296-126-092.

17                  6.3     Defendants further failed to pay Plaintiff and the proposed Class for all time  
18 worked;

19                  6.4     Based on the foregoing allegations, and upon termination, Defendants failed to  
20 pay Plaintiff and other former employees all wages earned in violation of RCW 49.48.010.

21                  6.5     As a result of Defendant's acts and omissions, Plaintiff and the proposed Class  
22 have been damaged in amounts to be proven at trial, and are thereby entitled to such unpaid  
23 wages, and attorney's fees and costs pursuant to RCW 49.46.090 and 49.48.030.

1                                   **VII. SECOND CAUSE OF ACTION**  
2                                   **(Willful Withholding of Wages in Violation of Washington Law)**

3           6.6     Plaintiff realleges the above paragraphs of the Complaint and thereby incorporate  
4 the same by reference.

5           6.7     The above acts by Defendants, based on their own policies and practices, were  
6 willful and with the intent to deprive Plaintiff and the proposed Class of all their wages owed,  
7 in violation of RCW 49.52.050 and RCW 49.52.070, entitling Plaintiff and the proposed Class  
8 to exemplary damages of twice the amount of unpaid wages, attorneys' fees, and costs.

9           6.8     As a result of Defendants' acts and omissions, Plaintiff and the proposed Class  
10 have been damaged in amounts to be proven at trial.

11                                   **VIII: PRAYER FOR RELIEF**

12           Wherefore, Plaintiff, on her own behalf and on behalf of the members of the proposed  
13 Class, prays for judgment against Defendants as follows:

- 14           A.     Certify the proposed Class;
- 15           B.     Appoint Plaintiff as Class representative;
- 16           C.     Appoint the undersigned attorneys as Class counsel;
- 17           D.     Declare that the actions complained of herein violate Washington's statutes and  
18 administrative codes;
- 19           E.     Award Plaintiff and Class members compensatory, liquidated, and exemplary  
20 damages;
- 21           F.     Award attorneys' fees and costs to Plaintiff's attorneys, as allowed by law;
- 22           G.     Award pre-judgment and post-judgment interest to Plaintiff and Class members,  
23 as provided by law; and,
- H.     Grant such other and further relief as this Court deems necessary.

1 DATED this 1<sup>st</sup> day of September, 2021.

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

4 By: /s/ Hardeep S. Rekhi, WSBA #34579

Hardeep S. Rekhi, WSBA #34579

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11 *Attorneys for Plaintiffs*